

AMENDED IN ASSEMBLY JUNE 4, 2013

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 820

Introduced by Committee on Governmental Organization (Senators Wright (Chair), Berryhill, Calderon, Cannella, Correa, De León, Galgiani, Hernandez, Lieu, Nielsen, and Padilla)

March 14, 2013

An act to amend Sections 11003.4, 19821, 19841, 19861, 19864, 19876, 19912, 19951, and 19984 of the Business and Professions Code, to amend Sections 1916.12, 1918.5, and 5405 of the Civil Code, to amend Sections 14024, 14025, 14026, 14027, 14028, 14030.2, 14034, 14036, 14037, 14037.5, 14037.7, 14038, 14039, 14040, 14041, 14043, 14061, 14065, 14066, 14070, 14071, 14071.5, 14072, 14074, 14075, 14076, 14085, 14086, 29503, and 31004 of, and to amend the heading of Article 4 (commencing with Section 14025) of Chapter 1 of Part 5 of Division 3 of Title 1 of, the Corporations Code, to amend Sections 300, 301, 320, 326, 350, 353, 355, 4805.055, 5104, 12003, 14003, 14200.1, 14200.2, 17002, 18002, 22005, 30002, 31055, and 50003 of, and to repeal and add Sections 351 and 371 of, the Financial Code, to amend Sections 8684.2, 11532, 11534, 11538, 11539, 11540, 11541, 11542, 11544, 11546, 11549, 11549.1, 11549.3, 12802.8, 13995.20, 13995.60, 13995.64.5, 13995.65.5, 13995.92, 13997.7, 14030, 14534.1, 14998.3, 14998.4, 14998.6, 14998.7, 15251, 15277, 53108.5, 53113, 53114, 53114.1, 53114.2, 53115, 53115.1, 53115.2, 53115.3, 53116, 53119, 53120, 53126.5, 53661, 63021.5, 65040.12, 91550, and 99055 of, and to amend the heading of Article 5 (commencing with Section 13995.50) of Chapter 1 of Part 4.7 of Division 3 of Title 2 of the Government Code, to amend Sections 71.4, 71.7, 72.6, 76.5, 76.6, 82,

and 82.3 of the Harbors and Navigation Code, to amend Sections 40448.6 and 44272 of the Health and Safety Code, to amend Sections 326.3, 326.4, and 326.5 of the Penal Code, to amend Section 25464 of the Public Resources Code, to amend Section 41136 of the Revenue and Taxation Code, and to amend Sections 335, 10200, 10202.5, and 15002 of the Unemployment Insurance Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 820, as amended, Committee on Governmental Organization. State government.

(1) Existing law and the Governor's Reorganization Plan No. 2 of 2012 (GRP 2), effective on July 3, 2012, and operative on July 1, 2013, assigns and reorganizes the functions of state government among executive officers and agencies by creating the following general agency structure in the executive branch: Business, Consumer Services, and Housing; Government Operations; Corrections and Rehabilitation; Labor and Workforce Development; California Health and Human Services; Environmental Protection; Natural Resources; and Transportation. In creating the new general agency structure, existing law and the GRP 2, abolished certain existing state entities and offices, including, among others, the Business, Transportation and Housing Agency and its secretary.

This bill would generally enact the statutory changes to make conforming name changes to properly reflect the assignment and reorganization of the functions of state government among the newly established executive entities and officers, including, among others, changing the name Department of Real Estate to Bureau of Real Estate. This bill would also reallocate certain duties of abolished executive entities and officers to newly established and existing ones.

(2) Existing law and the GRP 2 transfer the duties and authorities of the Department of Boating and Waterways to the Division of Boating and Waterways in the Department of Parks and Recreation and reallocate specified duties between the division and the Boating and Waterways Commission.

This bill would further modify duties between the division and the commission, including, among others, removing requirements for the consent of the commission for the department to make certain transfers,

loans, or grants under various programs and other proposals, as specified.

(3) Existing law and the GRP 2 transfer a requirement that the Business, Transportation and Housing Agency establish small business financial development corporations to the Governor's Office of Business and Economic Development.

This bill would make conforming changes with respect to the transfer of this duty and transfer other duties generally related to economic development from the abolished agency to the office, as specified.

(4) Existing law authorizes the State Energy Resources Conservation and Development Commission (Energy Commission) to work with the Business, Transportation and Housing Agency to implement the program funded by federal funds allocated to, and received by, the state for energy-related projects pursuant to the American Recovery and Reinvestment Act of 2009 and other federal acts related to the American Recovery and Reinvestment Act of 2009.

This bill would authorize the Energy Commission to work instead with the Governor's Office of Business and Economic Development.

(5) The California Tourism Marketing Act provides for the establishment of the California Travel and Tourism Commission within the Business, Transportation and Housing Agency.

This bill would remove references to the abolished agency in the act to transfer certain duties to the Governor's Office of Business and Economic Development, and delete obsolete provisions.

(6) Existing law and the GRP 2 transfer the California Film Commission and the Film California First Program from the Business, Transportation and Housing Agency to the Governor's Office of Business and Economic Development.

This bill would make administrative changes consistent with that transfer.

(7) The GRP 2 reallocates certain licensing and regulatory functions between the California Gambling Control Commission and the Department of Justice related to gaming.

This bill would reallocate additional functions among the commission and the department, including, among others, requiring the department, rather than the commission, to decide whether the payment of the annual gambling license fee is on an annual or installment basis, authorizing the department, rather than the commission, to collect certain fees, and requiring the department, rather than the commission, to administer the Charity Bingo Mitigation Fund.

(8) Existing law and the GRP 2 reallocates certain duties and functions of the Business, Transportation and Housing Agency related to the small business loan guarantee program, the disaster assistance loan program, the economic adjustment assistance grant, the employment training panel, green collar jobs program, and the film industry.

This bill would further reallocate the duties and functions of this abolished agency with regard to these programs and this industry.

(9) Existing law requires common interest developments to submit specified information, including personal identifying information regarding the president of the association, to the Secretary of State, who is required to make the information available for governmental purposes under specified conditions to certain entities, including, among others, the Business, Transportation and Housing Agency.

This bill would replace the abolished agency with the Business, Consumer Services, and Housing Agency.

(10) Existing law authorizes the Secretary of Business, Transportation and Housing to prescribe specified rules and regulations relating to certain mortgage instruments.

This bill would transfer the duties of the abolished officer with the Secretary of Business, Consumer Services, and Housing.

(11) Existing law authorizes the Governor to, with respect to the Business, Transportation and Housing Agency, appoint a Deputy Secretary of Housing to advise that agency's secretary on housing matters.

The bill would modify the Governor's authorization to appoint a Deputy Secretary of Housing Coordination to serve as the Secretary of Transportation's primary advisor on housing matters, as specified.

(12) Existing law provides that, among other things, the powers and duties of the Department of Transportation include investigating and reporting to the Secretary of Business, Transportation and Housing upon the consistency between housing plans and programs and federal transportation plans and programs.

This bill would instead provide that the Department of Transportation report under these circumstances to the Secretary of Transportation and the Secretary of Business, Consumer Services, and Housing, as specified.

(13) Existing law requires the Director of the Office of Planning and Research to consult with the Secretary of Business, Transportation and Housing, as specified.

This bill would instead require the director to consult with the Secretary of Business, Consumer Services, and Housing under these circumstances, as specified.

(14) The GRP 2 reorganizes the Department of Corporations and the Department of Financial Institutions into divisions under the Department of Business Oversight, within the Business, Consumer Services, and Housing Agency. Under the GRP 2, the executive officer of the Department of Business Oversight is the Commissioner of Business Oversight, and the department's administration includes a Deputy Commissioner of Business Oversight for the Division of Corporations, and a Deputy Commissioner of Business Oversight for the Division of Financial Institutions.

This bill would enact statutory changes to implement the above-described organizational structure by transferring the responsibilities of the Department of Corporations and the Department of Financial Institutions to the newly established Department of Business Oversight and its Division of Corporations and Division of Financial Institutions, headed by Senior Deputy Commissioners and the Office of Credit Unions, as specified. This bill would make other conforming changes to the duties *and restrictions* of the Department of Business Oversight and the Commissioner of Business Oversight to include additional activities relating to the *oversight and* functions of corporations and financial institutions. The bill would require the Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions to employ legal counsel to act as the attorney for the commissioner under specified circumstances.

(15) The GRP 2 recasts the California Technology Agency as the Department of Technology within the Government Operations Agency.

This bill would make various technical, nonsubstantive conforming changes to further reflect this reorganization. This bill would also designate that the Office of Technology Services and the Office of Information Security, each within the Department of Technology, is managed or under the direction of a chief. This bill would also rename the Public Safety Communications Division, also within the department, as the Public Safety Communications Office.

(16) This bill would become operative on July 1, 2013.

(17) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A “limited-equity housing cooperative” or a “workforce housing cooperative trust” is a corporation that meets the criteria of Section 11003.2 and that also meets the criteria of Sections 817 and 817.1 of the Civil Code, as applicable. Except as provided in subdivision (b), a limited-equity housing or workforce housing cooperative trust shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative or a workforce housing cooperative trust shall be exempt from the requirements of this chapter if the limited-equity housing cooperative or workforce housing cooperative trust complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the United States Department of Agriculture, the National Consumers Cooperative Bank, the California Housing Finance Agency, the Public Employees’ Retirement System (PERS), the State Teachers’ Retirement System (STRS), the Department of Housing and Community Development, or the Federal Home Loan Bank System or any of its member institutions, alone or in any combination with each other, or with the city, county, school district, or redevelopment agency in which the cooperative is located, directly finances or subsidizes at least 50 percent of the total construction or development cost or one hundred thousand dollars (\$100,000), whichever is less; or the real property to be occupied by the cooperative was sold or leased by the Department of Transportation, other state agency, a city, a county, or a school district for the development of the cooperative and has a regulatory agreement approved by the Department of Housing and Community Development for the term of the permanent financing, notwithstanding the source of the permanent subsidy or financing.

(2) No more than 20 percent of the total development cost of a limited-equity mobilehome park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.

1 (3) A regulatory agreement that covers the cooperative for a
2 term of at least as long as the duration of the permanent financing
3 or subsidy, notwithstanding the source of the permanent subsidy
4 or financing has been duly executed between the recipient of the
5 financing and either (A) one of the federal or state agencies
6 specified in paragraph (1) or (B) a local public agency that is
7 providing financing for the project under a regulatory agreement
8 meeting standards of the Department of Housing and Community
9 Development. The regulatory agreement shall make provision for
10 at least all of the following:

11 (A) Assurances for completion of the common areas and
12 facilities to be owned or leased by the limited-equity housing
13 cooperative, unless a construction agreement between the same
14 parties contains written assurances for completion.

15 (B) Governing instruments for the organization and operation
16 of the housing cooperative by the members.

17 (C) The ongoing fiscal management of the project by the
18 cooperative, including an adequate budget, reserves, and provisions
19 for maintenance and management.

20 (D) Distribution of a membership information report to any
21 prospective purchaser of a membership share, prior to purchase
22 of that share. The membership information report shall contain
23 full disclosure of the financial obligations and responsibilities of
24 cooperative membership, the resale of shares, the financing of the
25 cooperative including any arrangements made with any partners,
26 membership share accounts, occupancy restrictions, management
27 arrangements, and any other information pertinent to the benefits,
28 risks, and obligations of cooperative ownership.

29 (4) The federal, state, or local public agency that executes the
30 regulatory agreement shall satisfy itself that the bylaws, articles
31 of incorporation, occupancy agreement, subscription agreement,
32 any lease of the regulated premises, any arrangement with partners,
33 and arrangement for membership share accounts provide adequate
34 protection of the rights of cooperative members.

35 (5) The federal or state agency shall receive from the attorney
36 for the recipient of the financing or subsidy a legal opinion that
37 the cooperative meets the requirements of Section 817 of the Civil
38 Code and the exemption provided by this section.

39 (c) Any limited-equity cooperative, or workforce housing
40 cooperative trust that meets the requirements for exemption

1 pursuant to subdivision (b) may elect to be subject to all provisions
2 of this chapter.

3 (d) The developer of the cooperative shall notify the Bureau of
4 Real Estate, on a form provided by the bureau, that an exemption
5 is claimed under this section. The Bureau of Real Estate shall retain
6 this form for at least four years for statistical purposes.

7 SEC. 2. Section 19821 of the Business and Professions Code
8 is amended to read:

9 19821. (a) The commission shall cause to be made and kept
10 a record of all proceedings at regular and special meetings of the
11 commission. These records shall be open to public inspection.

12 (b) The department shall maintain a file of all applications for
13 licenses under this chapter. The commission shall maintain a record
14 of all actions taken with respect to those applications. The file and
15 record shall be open to public inspection.

16 (c) The department and commission may maintain any other
17 files and records as they deem appropriate. Except as provided in
18 this chapter, the records of the department and commission are
19 exempt from disclosure under Chapter 3.5 (commencing with
20 Section 6250) of Division 7 of Title 1 of the Government Code.

21 (d) Except as necessary for the administration of this chapter,
22 no commissioner and no official, employee, or agent of the
23 commission or the department, having obtained access to
24 confidential records or information in the performance of duties
25 pursuant to this chapter, shall knowingly disclose or furnish the
26 records or information, or any part thereof, to any person who is
27 not authorized by law to receive it. A violation of this subdivision
28 is a misdemeanor.

29 (e) Notwithstanding subdivision (k) of Section 1798.24 of the
30 Civil Code, a court shall not compel disclosure of personal
31 information in the possession of the department or the commission
32 to any person in any civil proceeding wherein the department or
33 the commission is not a party, except for good cause and upon a
34 showing that the information cannot otherwise be obtained. This
35 section shall not authorize the disclosure of personal information
36 that is otherwise exempt from disclosure.

37 SEC. 3. Section 19841 of the Business and Professions Code
38 is amended to read:

39 19841. The regulations adopted by the commission shall do
40 all of the following:

1 (a) With respect to applications, registrations, investigations,
2 and fees, the regulations shall include, but not be limited to,
3 provisions that do all of the following:

4 (1) Prescribe the method and manner of application and
5 registration.

6 (2) Prescribe the information to be furnished by any applicant,
7 licensee, or registrant concerning, as appropriate, the person's
8 personal history, habits, character, associates, criminal record,
9 business activities, organizational structure, and financial affairs,
10 past or present.

11 (3) Prescribe the information to be furnished by an owner
12 licensee relating to the licensee's gambling employees.

13 (4) Require fingerprinting or other methods of identification of
14 an applicant, licensee, or employee of a licensee.

15 (5) Prescribe the manner and method of collection and payment
16 of fees and issuance of licenses.

17 (b) Provide for the approval of game rules and equipment by
18 the department to ensure fairness to the public and compliance
19 with state laws.

20 (c) Implement the provisions of this chapter relating to licensing
21 and other approvals.

22 (d) Require owner licensees to report and keep records of
23 transactions, including transactions as determined by the
24 department, involving cash or credit. The regulations may include,
25 without limitation, regulations requiring owner licensees to file
26 with the department reports similar to those required by Sections
27 5313 and 5314 of Title 31 of the United States Code, and by
28 Sections 103.22 and 103.23 of Title 31 of the Code of Federal
29 Regulations, and any successor provisions thereto, from financial
30 institutions, as defined in Section 5312 of Title 31 of the United
31 States Code and Section 103.11 of Title 31 of the Code of Federal
32 Regulations, and any successor provisions.

33 (e) Provide for the receipt of protests and written comments on
34 an application by public agencies, public officials, local governing
35 bodies, or residents of the location of the gambling establishment
36 or future gambling establishment.

37 (f) Provide for the disapproval of advertising by licensed
38 gambling establishments that is determined by the department to
39 be deceptive to the public. Regulations adopted by the commission
40 for advertising by licensed gambling establishments shall be

1 consistent with the advertising regulations adopted by the
2 California Horse Racing Board and the Lottery Commission.
3 Advertisement that appeals to children or adolescents or that offers
4 gambling as a means of becoming wealthy is presumptively
5 deceptive.

6 (g) Govern all of the following:

7 (1) The extension of credit.

8 (2) The cashing, deposit, and redemption of checks or other
9 negotiable instruments.

10 (3) The verification of identification in monetary transactions.

11 (h) Prescribe minimum procedures for adoption by owner
12 licensees to exercise effective control over their internal fiscal and
13 gambling affairs, which shall include, but not be limited to,
14 provisions for all of the following:

15 (1) The safeguarding of assets and revenues, including the
16 recording of cash and evidences of indebtedness.

17 (2) Prescribing the manner in which compensation from games
18 and gross revenue shall be computed and reported by an owner
19 licensee.

20 (3) The provision of reliable records, accounts, and reports of
21 transactions, operations, and events, including reports to the
22 department.

23 (i) Provide for the adoption and use of internal audits, whether
24 by qualified internal auditors or by certified public accountants.
25 As used in this subdivision, “internal audit” means a type of control
26 that operates through the testing and evaluation of other controls
27 and that is also directed toward observing proper compliance with
28 the minimum standards of control prescribed in subdivision (h).

29 (j) Require periodic financial reports from each owner licensee.

30 (k) Specify standard forms for reporting financial conditions,
31 results of operations, and other relevant financial information.

32 (l) Formulate a uniform code of accounts and accounting
33 classifications to ensure consistency, comparability, and effective
34 disclosure of financial information.

35 (m) Prescribe intervals at which the information in subdivisions
36 (j) and (k) shall be furnished to the department.

37 (n) Require audits to be conducted, in accordance with generally
38 accepted auditing standards, of the financial statements of all owner
39 licensees whose annual gross revenues equal or exceed a specified
40 sum. However, nothing herein shall be construed to limit the

1 department's authority to require audits of any owner licensee.
2 Audits, compilations, and reviews provided for in this subdivision
3 shall be made by independent certified public accountants licensed
4 to practice in this state.

5 (o) Restrict, limit, or otherwise regulate any activity that is
6 related to the conduct of controlled gambling, consistent with the
7 purposes of this chapter.

8 (p) Define and limit the area, games, hours of operation, number
9 of tables, wagering limits, and equipment permitted, or the method
10 of operation of games and equipment, if the commission, upon the
11 recommendation of, or in consultation with, the department,
12 determines that local regulation of these subjects is insufficient to
13 protect the health, safety, or welfare of residents in geographical
14 areas proximate to a gambling establishment.

15 (q) Prohibit gambling enterprises from cashing checks drawn
16 against any federal, state, or county fund, including, but not limited
17 to, social security, unemployment insurance, disability payments,
18 or public assistance payments. However, a gambling enterprise
19 shall not be prohibited from cashing any payroll checks or checks
20 for the delivery of goods or services that are drawn against a
21 federal, state, or county fund.

22 (r) Provide for standards, specifications, and procedures
23 governing the manufacture, distribution, including the sale and
24 leasing, inspection, testing, location, operation, repair, and storage
25 of gambling equipment, and for the licensing of persons engaged
26 in the business of manufacturing, distributing, including the sale
27 and leasing, inspection, testing, repair, and storage of gambling
28 equipment.

29 (s) By December 31, 2011, provide procedures, criteria, and
30 timelines for the processing and approval of applications for the
31 licensing, temporary or interim licensing, or findings of suitability
32 for receivers, trustees, beneficiaries, executors, administrators,
33 conservators, successors in interest, or security interest holders for
34 a gambling enterprise so that gambling enterprises may operate
35 continuously in cases including, but not limited to, the death,
36 insolvency, foreclosure, receivership, or incapacity of a licensee.

37 SEC. 4. Section 19861 of the Business and Professions Code
38 is amended to read:

39 19861. Notwithstanding subdivision (i) of Section 19801, the
40 commission shall not deny a license to a gambling establishment

1 solely because it is not open to the public, provided that all of the
2 following are true: (a) the gambling establishment is situated in a
3 local jurisdiction that has an ordinance allowing only private clubs,
4 and the gambling establishment was in operation as a private club
5 under that ordinance on December 31, 1997, and met all applicable
6 state and local gaming registration requirements; (b) the gambling
7 establishment consists of no more than five gaming tables; (c)
8 video recordings of the entrance to the gambling room or rooms
9 and all tables situated therein are made during all hours of operation
10 by means of closed-circuit television cameras, and these recordings
11 are retained for a period of 30 days and are made available for
12 review by the department upon request; and (d) the gambling
13 establishment is open to members of the private club and their
14 spouses in accordance with membership criteria in effect as of
15 December 31, 1997.

16 A gambling establishment meeting these criteria, in addition to
17 the other requirements of this chapter, may be licensed to operate
18 as a private club gambling establishment until November 30, 2003,
19 or until the ownership or operation of the gambling establishment
20 changes from the ownership or operation as of January 1, 1998,
21 whichever occurs first. Operation of the gambling establishments
22 after this date shall only be permitted if the local jurisdiction
23 approves an ordinance, pursuant to Sections 19961 and 19962,
24 authorizing the operation of gambling establishments that are open
25 to the public. The commission shall adopt regulations implementing
26 this section. Prior to the commission's issuance of a license to a
27 private club, the department shall ensure that the ownership of the
28 gambling establishment has remained constant since January 1,
29 1998, and the operation of the gambling establishment has not
30 been leased to any third party.

31 SEC. 5. Section 19864 of the Business and Professions Code
32 is amended to read:

33 19864. (a) Application for a state license or other commission
34 action shall be submitted to the department on forms furnished by
35 the department.

36 (b) The application for a gambling license shall include all of
37 the following:

38 (1) The name of the proposed licensee.

39 (2) The name and location of the proposed gambling
40 establishment.

1 (3) The gambling games proposed to be conducted.

2 (4) The names of all persons directly or indirectly interested in
3 the business and the nature of the interest.

4 (5) A description of the proposed gambling establishment and
5 operation.

6 (6) Any other information and details the commission may
7 require in order to discharge its duties properly.

8 SEC. 6. Section 19876 of the Business and Professions Code
9 is amended to read:

10 19876. (a) Subject to the power of the commission to deny,
11 revoke, suspend, condition, or limit any license, as provided in
12 this chapter, a license shall be renewed biennially.

13 (b) An application for renewal of a gambling license shall be
14 filed by the owner licensee or key employee with the department
15 no later than 120 calendar days prior to the expiration of the current
16 license. The commission shall act upon any application for renewal
17 prior to the date of expiration of the current license. Upon renewal
18 of any owner license, the commission shall issue an appropriate
19 renewal certificate or validating device or sticker.

20 (c) Notwithstanding the provisions of subdivision (b), if an
21 owner licensee has submitted an application for renewal prior to
22 the original expiration date of the current license and the
23 commission is unable to act on the application prior to the
24 expiration date, the commission may extend the current license
25 for up to 180 days.

26 (d) Unless the commission determines otherwise, renewal of
27 an owner's gambling license shall be deemed to effectuate the
28 renewal of every other gambling license endorsed thereon.

29 (e) In addition to the penalties provided by law, any owner
30 licensee who deals, operates, carries on, conducts, maintains, or
31 exposes for play any gambling game after the expiration date of
32 the gambling license is liable to the state for all license fees and
33 penalties that would have been due upon renewal.

34 (f) If an owner licensee fails to renew the gambling license as
35 provided in this chapter, the commission may order the immediate
36 closure of the premises and a cessation of all gambling activity
37 therein until the license is renewed.

38 (g) If an owner licensee submits an application for renewal of
39 the gambling license after the deadline set in subdivision (b) but
40 before the original expiration date of the license, the commission

1 may assess reasonable delinquency fees not to exceed three times
2 the usual application fee.

3 SEC. 7. Section 19912 of the Business and Professions Code
4 is amended to read:

5 19912. (a) (1) A person shall not be employed as a gambling
6 enterprise employee, or serve as an independent agent, except as
7 provided in paragraph (2), unless he or she is the holder of one of
8 the following:

9 (A) A valid work permit issued in accordance with the applicable
10 ordinance or regulations of the county, city, or city and county in
11 which his or her duties are performed.

12 (B) A work permit issued by the commission pursuant to
13 regulations adopted by the commission for the issuance and
14 renewal of work permits. A work permit issued by the commission
15 shall be valid for two years.

16 (2) An independent agent is not required to hold a work permit
17 if he or she is not a resident of this state and has registered with
18 the department in accordance with regulations.

19 (b) A work permit shall not be issued by any city, county, or
20 city and county to any person who would be disqualified from
21 holding a state gambling license for the reasons specified in
22 subdivisions (a) to (g), inclusive, of Section 19859.

23 (c) The department may object to the issuance of a work permit
24 by a city, county, or city and county for any cause deemed
25 reasonable by the department, and if the department objects to
26 issuance of a work permit, the work permit shall be denied.

27 (1) The commission shall adopt regulations specifying particular
28 grounds for objection to issuance of, or refusal to issue, a work
29 permit.

30 (2) The ordinance of any city, county, or city and county relating
31 to issuance of work permits shall permit the department to object
32 to the issuance of any permit.

33 (3) Any person whose application for a work permit has been
34 denied because of an objection by the department may apply to
35 the commission for an evidentiary hearing in accordance with
36 regulations.

37 (d) Application for a work permit for use in any jurisdiction
38 where a locally issued work permit is not required by the licensing
39 authority of a city, county, or city and county shall be made to the
40 department, and may be granted or denied for any cause deemed

1 reasonable by the commission. If the commission denies the
2 application, it shall include in its notice of denial a statement of
3 facts upon which it relied in denying the application. Upon receipt
4 of an application for a work permit, the commission may issue a
5 temporary work permit for a period not to exceed 120 days,
6 pending completion of the background investigation by the
7 department and official action by the commission with respect to
8 the work permit application.

9 (e) An order of the commission denying an application for, or
10 placing restrictions or conditions on, a work permit, including an
11 order declining to issue a work permit following review pursuant
12 to paragraph (3) of subdivision (c), may be reviewed in accordance
13 with subdivision (e) of Section 19870.

14 SEC. 8. Section 19951 of the Business and Professions Code
15 is amended to read:

16 19951. (a) Every application for a license or approval shall be
17 accompanied by a nonrefundable fee, the amount of which shall
18 be adopted by regulation on or before January 1, 2009. The adopted
19 fee shall not exceed one thousand two hundred dollars (\$1,200).
20 Prior to adoption of the regulation, the nonrefundable application
21 fee shall be five hundred dollars (\$500).

22 (b) (1) Any fee paid pursuant to this section, including all
23 licenses issued to key employees and other persons whose names
24 are endorsed upon the license, shall be assessed against the
25 gambling license issued to the owner of the gambling
26 establishment. This paragraph shall not apply to key employee
27 licenses issued on and after January 1, 2009, or the implementation
28 of regulations establishing a personal key employee license adopted
29 pursuant to Section 19854, whichever is sooner.

30 (2) (A) The fee for initial issuance of a state gambling license
31 shall be an amount determined by the commission in accordance
32 with regulations adopted pursuant to this chapter.

33 (B) The fee for the renewal of a state gambling license shall be
34 determined pursuant to the schedule in subdivision (c) or the
35 schedule in subdivision (d), whichever amount is greater.

36 (C) The holder of a provisional license shall pay an annual fee
37 pursuant to the schedule in subdivision (c).

38 (c) The schedule based on the number of tables is as follows:

1 (1) For a license authorizing one to five tables, inclusive, at
2 which games are played, three hundred dollars (\$300) for each
3 table.

4 (2) For a license authorizing six to eight tables, inclusive, at
5 which games are played, five hundred fifty dollars (\$550) for each
6 table.

7 (3) For a license authorizing 9 to 14 tables, inclusive, at which
8 games are played, one thousand three hundred dollars (\$1,300) for
9 each table.

10 (4) For a license authorizing 15 to 25 tables, inclusive, at which
11 games are played, two thousand seven hundred dollars (\$2,700)
12 for each table.

13 (5) For a license authorizing 26 to 70 tables, inclusive, at which
14 games are played, four thousand dollars (\$4,000) for each table.

15 (6) For a license authorizing 71 or more tables at which games
16 are played, four thousand seven hundred dollars (\$4,700) for each
17 table.

18 (d) Without regard to the number of tables at which games may
19 be played pursuant to a gambling license, if, at any time of any
20 license renewal, or when a licensee is required to pay the fee
21 described in subparagraph (C) of paragraph (2) of subdivision (b)
22 it is determined that the gross revenues of an owner licensee during
23 the licensee's previous fiscal year fell within the following ranges,
24 the annual fee shall be as follows:

25 (1) For a gross revenue of two hundred thousand dollars
26 (\$200,000) to four hundred ninety-nine thousand nine hundred
27 ninety-nine dollars (\$499,999), inclusive, the amount specified by
28 the department pursuant to paragraph (2) of subdivision (c).

29 (2) For a gross revenue of five hundred thousand dollars
30 (\$500,000) to one million nine hundred ninety-nine thousand nine
31 hundred ninety-nine dollars (\$1,999,999), inclusive, the amount
32 specified by the department pursuant to paragraph (3) of
33 subdivision (c).

34 (3) For a gross revenue of two million dollars (\$2,000,000) to
35 nine million nine hundred ninety-nine thousand nine hundred
36 ninety-nine dollars (\$9,999,999), inclusive, the amount specified
37 by the department pursuant to paragraph (4) of subdivision (c).

38 (4) For a gross revenue of ten million dollars (\$10,000,000) to
39 twenty-nine million nine hundred ninety-nine thousand nine

1 hundred ninety-nine dollars (\$29,999,999), the amount specified
2 by the department pursuant to paragraph (5) of subdivision (c).

3 (5) For a gross revenue of thirty million dollars (\$30,000,000)
4 or more, the amount specified by the department pursuant to
5 paragraph (6) of subdivision (c).

6 (e) The department may provide for payment of the annual
7 gambling license fee on an annual or installment basis.

8 (f) For the purposes of this section, each table at which a game
9 is played constitutes a single game table.

10 (g) It is the intent of the Legislature that the fees paid pursuant
11 to this section are sufficient to enable the department and the
12 commission to fully carry out their duties and responsibilities under
13 this chapter.

14 SEC. 9. Section 19984 of the Business and Professions Code
15 is amended to read:

16 19984. Notwithstanding any other law, a licensed gambling
17 enterprise may contract with a third party for the purpose of
18 providing proposition player services at a gambling establishment,
19 subject to the following conditions:

20 (a) Any agreement, contract, or arrangement between a gambling
21 enterprise and a third-party provider of proposition player services
22 shall be approved in advance by the department, and in no event
23 shall a gambling enterprise or the house have any interest, whether
24 direct or indirect, in funds wagered, lost, or won.

25 (b) The commission shall establish reasonable criteria for, and
26 require the licensure and registration of, any person or entity that
27 provides proposition player services at gambling establishments
28 pursuant to this section, including owners, supervisors, and players.
29 Those employed by a third-party provider of proposition player
30 services, including owners, supervisors, observers, and players,
31 shall wear a badge which clearly identifies them as proposition
32 players whenever they are present within a gambling establishment.
33 The commission may impose licensing requirements, disclosures,
34 approvals, conditions, or limitations as it deems necessary to
35 protect the integrity of controlled gambling in this state, and may
36 assess, and the department may collect, reasonable fees and
37 deposits as necessary to defray the costs of providing this regulation
38 and oversight.

39 (c) The department, pursuant to regulations of the commission,
40 is empowered to perform background checks, financial audits, and

1 other investigatory services as needed to assist the commission in
2 regulating third party providers of proposition player services, and
3 may assess and collect reasonable fees and deposits as necessary
4 to defray the costs of providing this regulation and oversight. The
5 department may adopt emergency regulations in order to implement
6 this subdivision.

7 (d) No agreement or contract between a licensed gambling
8 enterprise and a third party concerning the provision of proposition
9 player services shall be invalidated or prohibited by the department
10 pursuant to this section until the commission establishes criteria
11 for, and makes determinations regarding the licensure or
12 registration of, the provision of these services pursuant to
13 subdivision (b).

14 SEC. 10. Section 1916.12 of the Civil Code is amended to
15 read:

16 1916.12. (a) The Legislature finds that the economic
17 environment of financial institutions has become increasingly
18 volatile as a result of regulatory revisions enacted by the United
19 States Congress and federal agencies including, but not necessarily
20 limited to, the Comptroller of the Currency, the Federal Home
21 Loan Bank Board, Federal Reserve Board, and the Depository
22 Institutions Deregulation Committee. The Legislature further finds
23 that deposit rate ceilings are being phased out while the cost of
24 and competition for funds have escalated. It is the purpose of this
25 section to maintain the quality of competition between
26 state-licensed and federally regulated financial institutions in the
27 field of mortgage lending, as well as promote the convenience,
28 advantage and best interests of California residents in their pursuit
29 of adequate and available housing. In order to remain competitive
30 and provide the optimum housing environment for the citizens of
31 California, state institutions require the ability to respond in a
32 timely manner to changes in mortgage lending parameters initiated
33 at the federal level. Local regulatory guidelines must promote
34 continued parity between the state and federal levels in order to
35 avoid creation of discriminatory burdens upon state institutions
36 and to protect interests held by California citizens. It is the intent
37 of the Legislature to eliminate past and prevent future inequities
38 between state and federal financial institutions doing business in
39 the State of California by creating a sensitive and responsive
40 mortgage parity procedure.

(b) The Secretary of the Business, Consumer Services, and Housing Agency, or the secretary's designee as defined by subdivision (c) of Section 1918.5 of the Civil Code, shall have the authority to prescribe rules and regulations extending to lenders who make loans upon the security of residential real property any right, power, privilege or duty relating to mortgage instruments that is equivalent to authority extended to federally regulated financial institutions by federal statute or regulation.

(c) In order to grant equivalent mortgage lending authority to state financial institutions to that which has been extended to federal financial institutions, the secretary or the secretary's designee shall adopt such regulations within 60 days of the effective date of the statute or regulation extending the comparable right, power, privilege or duty to federally regulated financial institutions.

(d) The provisions of Sections 1916.5, 1916.6, 1916.7, 1916.8, and 1916.9, and any other provisions of law relating to the requirements for changes in the rate of interest on loans, shall not be applicable to loans made pursuant to the provisions of this section and regulations promulgated thereunder.

(e) Any regulations adopted pursuant to this section shall expire on January 1 of the second succeeding year following the end of the calendar year in which the regulation was promulgated. Subsequent amendments to these regulations cannot extend this expiration date.

(f) This section shall become operative on December 31, 1983.

SEC. 11. Section 1918.5 of the Civil Code is amended to read: 1918.5. As used in this chapter:

(a) "Evidence of debt" means a note or negotiable instrument.

(b) "Secretary" means the Secretary of the Business, Consumer Services, and Housing.

(c) "Secretary's designee" means the director of a department within the agency that licenses or regulates the institutions, organizations or persons engaged in a business related to or affecting compliance with this chapter.

(d) "Security document" means a mortgage contract, deed of trust, real estate sales contract, or any note or negotiable instrument issued in connection therewith, when its purpose is to finance the purchase or construction of real property occupied or intended to be occupied by the borrower, containing four or fewer residential

1 units or on which four or fewer residential units are to be
2 constructed.

3 SEC. 12. Section 5405 of the Civil Code is amended to read:

4 5405. (a) To assist with the identification of common interest
5 developments, each association, whether incorporated or
6 unincorporated, shall submit to the Secretary of State, on a form
7 and for a fee not to exceed thirty dollars (\$30) that the Secretary
8 of State shall prescribe, the following information concerning the
9 association and the development that it manages:

10 (1) A statement that the association is formed to manage a
11 common interest development under the Davis-Stirling Common
12 Interest Development Act.

13 (2) The name of the association.

14 (3) The street address of the business or corporate office of the
15 association, if any.

16 (4) The street address of the association's onsite office, if
17 different from the street address of the business or corporate office,
18 or if there is no onsite office, the street address of the responsible
19 officer or managing agent of the association.

20 (5) The name, address, and either the daytime telephone number
21 or email address of the president of the association, other than the
22 address, telephone number, or email address of the association's
23 onsite office or managing agent.

24 (6) The name, street address, and daytime telephone number of
25 the association's managing agent, if any.

26 (7) The county, and, if in an incorporated area, the city in which
27 the development is physically located. If the boundaries of the
28 development are physically located in more than one county, each
29 of the counties in which it is located.

30 (8) If the development is in an unincorporated area, the city
31 closest in proximity to the development.

32 (9) The front street and nearest cross street of the physical
33 location of the development.

34 (10) The type of common interest development managed by the
35 association.

36 (11) The number of separate interests in the development.

37 (b) The association shall submit the information required by
38 this section as follows:

39 (1) By incorporated associations, within 90 days after the filing
40 of its original articles of incorporation, and thereafter at the time

1 the association files its statement of principal business activity
2 with the Secretary of State pursuant to Section 8210 of the
3 Corporations Code.

4 (2) By unincorporated associations, in July 2003, and in that
5 same month biennially thereafter. Upon changing its status to that
6 of a corporation, the association shall comply with the filing
7 deadlines in paragraph (1).

8 (c) The association shall notify the Secretary of State of any
9 change in the street address of the association's onsite office or of
10 the responsible officer or managing agent of the association in the
11 form and for a fee prescribed by the Secretary of State, within 60
12 days of the change.

13 (d) The penalty for an incorporated association's noncompliance
14 with the initial or biennial filing requirements of this section shall
15 be suspension of the association's rights, privileges, and powers
16 as a corporation and monetary penalties, to the same extent and in
17 the same manner as suspension and monetary penalties imposed
18 pursuant to Section 8810 of the Corporations Code.

19 (e) The statement required by this section may be filed,
20 notwithstanding suspension of the corporate powers, rights, and
21 privileges under this section or under provisions of the Revenue
22 and Taxation Code. Upon the filing of a statement under this
23 section by a corporation that has suffered suspension under this
24 section, the Secretary of State shall certify that fact to the Franchise
25 Tax Board and the corporation may thereupon be relieved from
26 suspension, unless the corporation is held in suspension by the
27 Franchise Tax Board by reason of Section 23301, 23301.5, or
28 23775 of the Revenue and Taxation Code.

29 (f) The Secretary of State shall make the information submitted
30 pursuant to paragraph (5) of subdivision (a) available only for
31 governmental purposes and only to Members of the Legislature
32 and the Business, Consumer Services, and Housing Agency, upon
33 written request. All other information submitted pursuant to this
34 section shall be subject to public inspection pursuant to the
35 California Public Records Act (Chapter 3.5 (commencing with
36 Section 6250) of Division 7 of Title 1 of the Government Code).
37 The information submitted pursuant to this section shall be made
38 available for governmental or public inspection.

39 (g) Whenever any form is filed pursuant to this section, it
40 supersedes any previously filed form.

1 (h) The Secretary of State may destroy or otherwise dispose of
2 any form filed pursuant to this section after it has been superseded
3 by the filing of a new form.

4 SEC. 13. Section 14024 of the Corporations Code is amended
5 to read:

6 14024. The manager shall adopt regulations concerning the
7 implementation of this chapter and direct lending as emergency
8 regulations in accordance with Chapter 3.5 (commencing with
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
10 Code. The adoption of these regulations is an emergency and
11 necessary for the immediate preservation of the public peace, health
12 and safety, or general welfare within the meaning of subdivision
13 (b) of Section 11346.1 of the Government Code. Notwithstanding
14 subdivision (e) of Section 11346.1 of the Government Code, the
15 regulations shall not remain in effect for more than 180 days unless
16 the Governor's Office of Business and Economic Development
17 complies with all provisions of Chapter 3.5 (commencing with
18 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
19 Code, as required by subdivision (e) of Section 11346.1 of the
20 Government Code. This section also applies to any direct loan
21 program administered by the Governor's Office of Business and
22 Economic Development.

23 SEC. 14. Section 14025 of the Corporations Code is amended
24 to read:

25 14025. The manager shall do all of the following:

26 (a) Administer this part.

27 (b) In accordance with program resources, stimulate the
28 formation of corporations and the use of branch offices for the
29 purposes of making this program accessible to all areas of the state.

30 (c) Expeditiously approve or disapprove the articles of
31 incorporation and any subsequent amendments to the articles of
32 incorporation of a corporation.

33 (d) Require each corporation to submit an annual written plan
34 of operation.

35 (e) Review reports from the Department of Financial Institutions
36 and inform corporations as to what corrective action is required.

37 (f) Examine, or cause to be examined, at any reasonable time,
38 all books, records, and documents of every kind, and the physical
39 properties of a corporation. The inspection shall include the right
40 to make copies, extracts, and search records.

1 SEC. 15. The heading of Article 4 (commencing with Section
2 14025) of Chapter 1 of Part 5 of Division 3 of Title 1 of the
3 Corporations Code is amended to read:

4
5 Article 4. Manager
6

7 SEC. 16. Section 14026 of the Corporations Code is amended
8 to read:

9 14026. The manager may do all of the following:

- 10 (a) Contract for services entered into pursuant to this chapter.
11 (b) Hold public hearings.
12 (c) Act as liaison between corporations formed under this part,
13 other state and federal agencies, lenders, and the Legislature.
14 (d) Process and tabulate on a monthly basis all corporate reports.
15 (e) Attend board meetings.
16 (f) Attend and participate at corporation meetings. The manager,
17 or his or her designee, shall be an ex officio, nonvoting
18 representative on the board of directors and loan committees of
19 each corporation. The manager shall meet with the board of
20 directors of each corporation at least once each fiscal year.
21 (g) Assist corporations in applying for federal grant applications,
22 and in obtaining program support from the business community.

23 SEC. 17. Section 14027 of the Corporations Code is amended
24 to read:

25 14027. The manager shall have the accounts of each corporation
26 formed under this part audited as of the close of business on June
27 30, of each year. The manager shall also have the portfolio of each
28 corporation audited a minimum of once a year. Material audit
29 exceptions that are not corrected by the corporation within a
30 reasonable period of time may result in the suspension of the
31 corporation pursuant to Section 14028.

32 SEC. 18. Section 14028 of the Corporations Code is amended
33 to read:

34 14028. (a) Upon a finding by the manager that irreparable
35 harm may occur if guarantee authority is not temporarily withdrawn
36 from a corporation, the manager may temporarily withdraw
37 guarantee authority from a corporation. The notice of temporary
38 withdrawal sent to the corporation shall specify the reasons for the
39 action. As used in this section, “guarantee authority” means the
40 authority to make or guarantee any loan that encumbers funds in

1 a trust fund account or the expansion fund. The manager shall
2 make one of the determinations specified in subdivision (c) within
3 30 days of the effective date of the temporary withdrawal unless
4 the corporation and the manager mutually agree to an extension.
5 The corporation shall have the opportunity to submit written
6 material to the manager addressing the items stated in the
7 temporary withdrawal notice. If the manager does not make any
8 determinations within 30 days, the temporary withdrawal shall be
9 negated. The corporation's yearly contract shall remain in effect
10 during the period of temporary withdrawal, and the corporation
11 shall continue to receive reimbursement of necessary operating
12 expenses.

13 (b) Failure of a corporation to substantially comply with the
14 following may result in the suspension of a corporation:

15 (1) Regulations implementing the Small Business Development
16 Corporation Law.

17 (2) The plan of operation specified in subdivision (d) of Section
18 14025.

19 (3) Fiscal and portfolio requirements, as contained in the fiscal
20 and portfolio audits specified in Section 14027.

21 (4) Milestones and scope of work as contained in the annual
22 contract between the corporation and the office.

23 (c) Pursuant to subdivision (a) or (b), the manager may do the
24 following:

25 (1) Terminate the temporary withdrawal.

26 (2) Terminate the temporary withdrawal subject to the
27 corporation's adoption of a specified remedial action plan.

28 (3) Temporarily withdraw, or continue to withdraw, guarantee
29 authority until a specified time. This determination by the manager
30 requires a finding that the corporation has failed to comply with
31 the Small Business Development Corporation Law.

32 (4) Suspend the corporation.

33 (5) Suspend the corporation, with suspension stayed until the
34 corporation provides a remedial action plan to the manager, and
35 the manager decides whether to repeal or implement the stayed
36 suspension.

37 The determinations contained in paragraphs (4) and (5) require
38 a finding that irreparable harm will occur unless the corporation
39 is suspended.

1 (d) In considering a determination regarding the recommended
2 suspension and possible remedial action plans, the manager shall
3 consider, along with other criteria as specified in subdivision (b),
4 the corporation's history and past performance.

5 (e) Upon suspension of a corporation, the manager shall transfer
6 all funds, whether encumbered or not, in the trust fund account of
7 the suspended corporation into either the expansion fund or
8 temporarily transfer the funds to another corporation.

9 (f) If the manager decides to take any action against the
10 corporation pursuant to paragraphs (2) to (5), inclusive, of
11 subdivision (c), the corporation shall be notified of the action 10
12 days before the effective date of the action. The corporation shall
13 have the right to appeal the manager's decision to the board within
14 that 10-day period by sending notice to the manager and to the
15 chair of the board. Once the manager receives notice that the action
16 is being appealed, the manager's action shall be stayed except for
17 temporary withdrawal of guarantee authority. Upon receipt of the
18 notice, the manager shall schedule a properly noticed board meeting
19 within 30 days. The board may elect to take any of the actions
20 listed in subdivision (g). The temporary withdrawal of corporation
21 guarantee authority shall remain in effect until the board issues its
22 decision.

23 (g) Pursuant to subdivision (f), the board may do any of the
24 following:

25 (1) Terminate the action taken by the director.

26 (2) Modify the action taken by the manager subject to the
27 adoption by the corporation of a specified remedial action plan.

28 (3) Affirm the action taken by the manager.

29 (h) Following suspension, the corporation may continue its
30 existence as a nonprofit corporation pursuant to the Nonprofit
31 Public Benefit Corporation Law (Part 2 (commencing with Section
32 5110) of Division 2) but shall no longer be registered with the
33 Secretary of State as a small business development corporation.
34 A corporation shall not enjoy any of the benefits of a small business
35 development corporation following suspension.

36 (i) The funds in the trust fund account of a corporation under
37 temporary withdrawal shall be transferred to the expansion fund.
38 Upon termination of the temporary withdrawal, unless the
39 termination is caused by suspension, the funds of the corporation
40 that were transferred to the expansion fund from the trust fund

1 account shall be returned to the corporation's trust fund account,
2 notwithstanding Section 14037. While the funds of a corporation's
3 trust fund account reside in the expansion fund, use of the principal
4 on the funds shall be governed by the implementing regulations
5 specifying use of funds in the expansion fund. Interest on the funds
6 moved from a corporation's trust fund account upon temporary
7 withdrawal shall be limited to payment of the corporation's
8 administrative expenses, as contained in the contract between the
9 corporation and the office.

10 SEC. 19. Section 14030.2 of the Corporations Code is amended
11 to read:

12 14030.2. (a) The manager may establish accounts within the
13 expansion fund for loan guarantees and surety bond guarantees,
14 including loan loss reserves. Each account is a legally separate
15 account, and shall not be used to satisfy loan or surety bond
16 guarantees or other obligations of another corporation. The manager
17 shall recommend whether the expansion fund and trust fund
18 accounts are to be leveraged, and if so, by how much. Upon the
19 request of the corporation, the manager's decision may be repealed
20 or modified by a board resolution.

21 (b) Annually, not later than January 1 of each year commencing
22 January 1, 1996, the manager shall prepare a report regarding the
23 loss experience for the expansion fund for loan guarantees and
24 surety bond guarantees for the preceding fiscal year. At a minimum,
25 the report shall also include data regarding numbers of surety bond
26 and loan guarantees awarded through the expansion fund, including
27 ethnicity and gender data of participating contractors and other
28 entities, and experience of surety insurer participants in the bond
29 guarantee program. The report shall include the information
30 described in Section 14076 of the Corporations Code. The manager
31 shall submit that report to the Governor and the Legislature.

32 SEC. 20. Section 14034 of the Corporations Code is amended
33 to read:

34 14034. (a) The manager at his or her discretion, with the
35 approval of the Director of Finance, may request the trustee to
36 invest those funds in the trust fund in any of the securities described
37 in Section 16430 of the Government Code. Returns from these
38 investments shall be deposited in the expansion fund and shall be
39 used to support the programs of this part.

1 (b) Any investments made in securities described in Section
2 16430 of the Government Code shall be governed by the statement
3 of investment policy prepared by the Treasurer pursuant to
4 subdivision (a) of Section 16481.2 of the Government Code.

5 SEC. 21. Section 14036 of the Corporations Code is amended
6 to read:

7 14036. The expansion fund and trust fund are created solely
8 for the purpose of receiving state, federal, or local government
9 money, and other public or private money to make loans,
10 guarantees, and restricted investments pursuant to this article.
11 Funds in the expansion fund may be allocated by the manager,
12 with the approval of the Department of Finance, to the trust fund
13 accounts.

14 SEC. 22. Section 14037 of the Corporations Code is amended
15 to read:

16 14037. (a) The state shall not be liable or obligated in any way
17 beyond the state money that is allocated and deposited in the trust
18 fund account from state money and that is appropriated for these
19 purposes.

20 (b) The manager may reallocate funds held within a
21 corporation's trust fund account.

22 (1) The manager shall reallocate funds based on which
23 corporation is most effectively using its guarantee funds. If funds
24 are withdrawn from a less effective corporation as part of a
25 reallocation, the office shall make that withdrawal only after giving
26 consideration to that corporation's fiscal solvency, its ability to
27 honor loan guarantee defaults, and its ability to maintain a viable
28 presence within the region it serves. Reallocation of funds shall
29 occur no more frequently than once per fiscal year. Any decision
30 made by the manager pursuant to this subdivision may be appealed
31 to the board. The board has authority to repeal or modify any
32 decision to reallocate funds.

33 (2) The manager may authorize a corporation to exceed the
34 leverage ratio specified in Section 14030, subdivision (b) of Section
35 14070, and subdivision (a) of Section 14076 pending the annual
36 reallocation of funds pursuant to this section. However, no
37 corporation shall be permitted to exceed an outstanding guarantee
38 liability of more than five times its portion of funds on deposit in
39 the expansion fund.

1 SEC. 23. Section 14037.5 of the Corporations Code is amended
2 to read:

3 14037.5. The Director of Finance, with the approval of the
4 Governor, may transfer moneys in the Special Fund for Economic
5 Uncertainties to the Small Business Expansion Fund for use as
6 authorized by the manager, in an amount necessary to make loan
7 guarantees pursuant to Chapter 1 (commencing with Section 14000)
8 of Part 5 of Division 3 of Title 1 of the Corporations Code.

9 SEC. 24. Section 14037.7 of the Corporations Code is amended
10 to read:

11 14037.7. Pursuant to subdivision (f) of Section 8684.2 of the
12 Government Code, within 60 days of the conclusion of the period
13 for guaranteeing loans under any small business disaster loan
14 guarantee program conducted for a disaster as authorized by
15 Section 8684.2 of the Government Code or Section 14075, the
16 manager, through the office, shall provide a report to the
17 Legislature on loan guarantees approved and rejected by gender,
18 ethnic group, type of business and location, and each participating
19 loan institution. The office need only submit one report to comply
20 with this section and subdivision (f) of Section 8684.2 of the
21 Government Code.

22 SEC. 25. Section 14038 of the Corporations Code is amended
23 to read:

24 14038. (a) The funds in the expansion fund shall be paid out
25 to trust fund accounts by the Treasurer on warrants drawn by the
26 Controller and requisitioned by the manager, pursuant to the
27 purposes of this chapter. The manager may transfer funds allocated
28 from the expansion fund to accounts, established solely to receive
29 the funds, in lending institutions designated by the office to act as
30 trustee. The lending institutions so designated shall be approved
31 by the state for the receipt of state deposits. Interest earned on the
32 trust fund accounts in lending institutions may be utilized by the
33 corporations pursuant to the purposes of this chapter.

34 (b) Except as specified in subdivision (c), the manager shall
35 allocate and transfer money to trust fund accounts based on
36 performance-based criteria. The criteria shall include, but not be
37 limited to, the following:

38 (1) The default record of the corporation.

39 (2) The number and amount of loans guaranteed by a
40 corporation.

1 (3) The number and amount of loans made by a corporation if
2 state funds were used to make those loans.

3 (4) The number and amount of surety bonds guaranteed by a
4 corporation.

5 Any decision made by the manager pursuant to this subdivision
6 may be appealed to the board within 15 days of notice of the
7 proposed action. The board may repeal or modify any reallocation
8 and transfer decisions made by the manager.

9 (c) The criteria specified in subdivision (b) shall not apply to a
10 corporation that has been in existence for five years or less. The
11 manager shall develop regulations specifying the basis for
12 transferring account funds to those corporations that have been in
13 existence for five years or less.

14 SEC. 26. Section 14039 of the Corporations Code is amended
15 to read:

16 14039. Pursuant to this section and the regulations, the state
17 has residual interest in the funds deposited by the state to a trust
18 fund account and to the return on these funds from investments.
19 On dissolution or suspension of the corporation, these funds shall
20 be withdrawn by the manager from the trust fund account and
21 returned to the expansion fund or temporarily transferred to another
22 trust fund account. This provision shall be contained in the trust
23 instructions to the trustee.

24 SEC. 27. Section 14040 of the Corporations Code is amended
25 to read:

26 14040. Each trust fund account shall consist of a loan guarantee
27 account, and, upon recommendation by the manager, a bond
28 guarantee account, each of which is a legally separate account,
29 and the assets of one account shall not be used to satisfy loan
30 guarantees or other obligations of another corporation. Not more
31 than one-third of a trust fund account shall be allocated to a bond
32 guarantee account. A corporation shall not use trust fund accounts
33 to secure a corporate indebtedness. State funds deposited in the
34 trust fund accounts, with the exception of guarantees established
35 pursuant to this chapter, shall not be subject to liens or
36 encumbrances of the corporation or its creditors.

37 SEC. 28. Section 14041 of the Corporations Code is amended
38 to read:

39 14041. (a) Except as provided in subdivisions (c) and (d) of
40 Section 14070, the trust fund account, shall be used solely to make

1 loans, guarantee bonds, and guarantee loans, approved by the
2 corporation, that meet the California Small Business Development
3 Corporation Law loan criteria. The state shall not be liable or
4 obligated in any way as a result of the allocation of state money
5 to a trust fund account beyond the state money that is allocated
6 and deposited in the fund pursuant to this chapter, and that is not
7 otherwise withdrawn by the state pursuant to this chapter.

8 (b) A summary of all loans and bonds to which a state guarantee
9 is attached shall be submitted to the manager upon execution of
10 the loan agreement and periodically thereafter.

11 (c) A summary of all loans made by a corporation shall be
12 submitted to the manager upon execution of the loan agreement
13 and periodically thereafter.

14 SEC. 29. Section 14043 of the Corporations Code is amended
15 to read:

16 14043. The financial institution that is to act as trustee of the
17 trust fund shall be designated after review by the manager. The
18 corporation shall not receive money on deposit to support
19 guarantees issued under this chapter without the approval of the
20 manager.

21 SEC. 30. Section 14061 of the Corporations Code is amended
22 to read:

23 14061. Every corporation shall provide for and maintain a
24 central staff to perform all administrative requirements of the
25 corporation including all those functions required of a corporation
26 by the manager.

27 SEC. 31. Section 14065 of the Corporations Code is amended
28 to read:

29 14065. The corporations shall report to the manager, or his or
30 her designated representative, all statistical and other reports
31 required by this part, responses to audit reports, budget
32 requirements, invoices submitted for payment by the state, and
33 information concerning loans made or guaranteed.

34 SEC. 32. Section 14066 of the Corporations Code is amended
35 to read:

36 14066. The corporation shall make a report to the manager, as
37 of the close of business on June 30, of each year describing the
38 corporation's activities and any additional information requested
39 by the manager, on or before August 1 of each year.

1 SEC. 33. Section 14070 of the Corporations Code, as amended
2 by Section 4 of Chapter 648 of the Statutes of 2012, is amended
3 to read:

4 14070. (a) The corporate guarantee shall be backed by funds
5 on deposit in the corporation's trust fund account, or by receivables
6 due from funds loaned from the corporation's trust fund account
7 to another fund in state government as directed by the Department
8 of Finance pursuant to a statute enacted by the Legislature.

9 (b) Loan guarantees shall be secured by a reserve of at least 20
10 percent to be determined by the manager.

11 (c) The expansion fund and trust fund accounts shall be used
12 exclusively to guarantee obligations and pay the administrative
13 costs of the corporations. A corporation located in a rural area may
14 utilize the funds for direct lending to farmers as long as at least 90
15 percent of the corporate fund farm loans, calculated by dollar
16 amount, and all expansion fund farm loans are guaranteed by the
17 United States Department of Agriculture. The amount of funds
18 available for direct farm lending shall be determined by the
19 manager. In its capacity as a direct lender, the corporation may
20 sell in the secondary market the guaranteed portion of each loan
21 so as to raise additional funds for direct lending. The office shall
22 issue regulations governing these direct loans, including the
23 maximum amount of these loans.

24 (d) In furtherance of the purposes of this part, up to one-half of
25 the trust funds may be used to guarantee loans utilized to establish
26 a Business and Industrial Development Corporation (BIDCO)
27 under Division 15 (commencing with Section 33000) of the
28 Financial Code.

29 (e) To execute the direct loan programs established in this
30 chapter, the manager may loan trust funds to a corporation located
31 in a rural area for the express purpose of lending those funds to an
32 identified borrower. The loan authorized by the manager to the
33 corporation shall be on terms similar to the loan between the
34 corporation and the borrower. The amount of the loan may be in
35 excess of the amount of a loan to any individual farm borrower,
36 but actual disbursements pursuant to the office loan agreement
37 shall be required to be supported by a loan agreement between the
38 farm borrower and the corporation in an amount at least equal to
39 the requested disbursement. The loan between the office and the
40 corporation shall be evidenced by a credit agreement. In the event

1 that any loan between the corporation and borrower is not
2 guaranteed by a governmental agency, the portion of the credit
3 agreement attributable to that loan shall be secured by assignment
4 of any note, executed in favor of the corporation by the borrower
5 to the office. The terms and conditions of the credit agreement
6 shall be similar to the loan agreement between the corporation and
7 the borrower, which shall be collateralized by the note between
8 the corporation and the borrower. In the absence of fraud on the
9 part of the corporation, the liability of the corporation to repay the
10 loan to the office is limited to the repayment received by the
11 corporation from the borrower except in a case where the United
12 States Department of Agriculture requires exposure by the
13 corporation in rule or regulation. The corporation may use trust
14 funds for loan repayment to the office if the corporation has
15 exhausted a loan loss reserve created for this purpose. Interest and
16 principal received by the office from the corporation shall be
17 deposited into the same account from which the funds were
18 originally borrowed.

19 (f) Upon the approval of the manager, a corporation shall be
20 authorized to borrow trust funds from the office for the purpose
21 of relending those funds to small businesses. A corporation shall
22 demonstrate to the manager that it has the capacity to administer
23 a direct loan program, and has procedures in place to limit the
24 default rate for loans to startup businesses. Not more than 25
25 percent of any trust fund account shall be used for the direct lending
26 established pursuant to this subdivision. A loan to a corporation
27 shall not exceed the amount of funds likely to be lent to small
28 businesses within three months following the loan to the
29 corporation. The maximum loan amount to a small business is fifty
30 thousand dollars (\$50,000). In the absence of fraud on the part of
31 the corporation, the repayment obligation pursuant to the loan to
32 the corporation shall be limited to the amount of funds received
33 by the corporation for the loan to the small business and any other
34 funds received from the office that are not disbursed. The
35 corporation shall be authorized to charge a fee to the small business
36 borrower, in an amount determined by the manager pursuant to
37 regulation. The program provided for in this subdivision shall be
38 available in all geographic areas of the state.

1 (g) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.

4 SEC. 34. Section 14070 of the Corporations Code, as amended
5 by Section 5 of Chapter 648 of the Statutes of 2012, is amended
6 to read:

7 14070. (a) The corporate guarantee shall be backed by funds
8 on deposit in the corporation's trust fund account, or by receivables
9 due from funds loaned from the corporation's trust fund account
10 to another fund in state government as directed by the Department
11 of Finance pursuant to a statute enacted by the Legislature.

12 (b) Loan guarantees shall be secured by a reserve of at least 25
13 percent to be determined by the manager, unless the manager
14 authorizes a higher leverage ratio for an individual corporation
15 pursuant to subdivision (b) of Section 14037.

16 (c) The expansion fund and trust fund accounts shall be used
17 exclusively to guarantee obligations and pay the administrative
18 costs of the corporations. A corporation located in a rural area may
19 utilize the funds for direct lending to farmers as long as at least 90
20 percent of the corporate fund farm loans, calculated by dollar
21 amount, and all expansion fund farm loans are guaranteed by the
22 United States Department of Agriculture. The amount of funds
23 available for direct farm lending shall be determined by the
24 manager. In its capacity as a direct lender, the corporation may
25 sell in the secondary market the guaranteed portion of each loan
26 so as to raise additional funds for direct lending. The office shall
27 issue regulations governing these direct loans, including the
28 maximum amount of these loans.

29 (d) In furtherance of the purposes of this part, up to one-half of
30 the trust funds may be used to guarantee loans utilized to establish
31 a Business and Industrial Development Corporation (BIDCO)
32 under Division 15 (commencing with Section 33000) of the
33 Financial Code.

34 (e) To execute the direct loan programs established in this
35 chapter, the manager may loan trust funds to a corporation located
36 in a rural area for the express purpose of lending those funds to an
37 identified borrower. The loan authorized by the manager to the
38 corporation shall be on terms similar to the loan between the
39 corporation and the borrower. The amount of the loan may be in
40 excess of the amount of a loan to any individual farm borrower,

1 but actual disbursements pursuant to the office loan agreement
2 shall be required to be supported by a loan agreement between the
3 farm borrower and the corporation in an amount at least equal to
4 the requested disbursement. The loan between the office and the
5 corporation shall be evidenced by a credit agreement. In the event
6 that any loan between the corporation and borrower is not
7 guaranteed by a governmental agency, the portion of the credit
8 agreement attributable to that loan shall be secured by assignment
9 of any note, executed in favor of the corporation by the borrower
10 to the office. The terms and conditions of the credit agreement
11 shall be similar to the loan agreement between the corporation and
12 the borrower, which shall be collateralized by the note between
13 the corporation and the borrower. In the absence of fraud on the
14 part of the corporation, the liability of the corporation to repay the
15 loan to the office is limited to the repayment received by the
16 corporation from the borrower except in a case where the United
17 States Department of Agriculture requires exposure by the
18 corporation in rule or regulation. The corporation may use trust
19 funds for loan repayment to the office if the corporation has
20 exhausted a loan loss reserve created for this purpose. Interest and
21 principal received by the office from the corporation shall be
22 deposited into the same account from which the funds were
23 originally borrowed.

24 (f) Upon the approval of the manager, a corporation shall be
25 authorized to borrow trust funds from the office for the purpose
26 of relending those funds to small businesses. A corporation shall
27 demonstrate to the manager that it has the capacity to administer
28 a direct loan program, and has procedures in place to limit the
29 default rate for loans to startup businesses. Not more than 25
30 percent of any trust fund account shall be used for the direct lending
31 established pursuant to this subdivision. A loan to a corporation
32 shall not exceed the amount of funds likely to be lent to small
33 businesses within three months following the loan to the
34 corporation. The maximum loan amount to a small business is fifty
35 thousand dollars (\$50,000). In the absence of fraud on the part of
36 the corporation, the repayment obligation pursuant to the loan to
37 the corporation shall be limited to the amount of funds received
38 by the corporation for the loan to the small business and any other
39 funds received from the agency that are not disbursed. The
40 corporation shall be authorized to charge a fee to the small business

1 borrower, in an amount determined by the manager pursuant to
2 regulation. The program provided for in this subdivision shall be
3 available in all geographic areas of the state.

4 (g) This section shall become operative on January 1, 2018.

5 SEC. 35. Section 14071 of the Corporations Code is amended
6 to read:

7 14071. In furtherance of the purposes set forth in Section
8 14002, a corporation may do any one or more of the following
9 activities, but only to the extent that the activities are authorized
10 pursuant to the contract between the office and the corporation:
11 guarantee, endorse, or act as surety on the bonds, notes, contracts,
12 or other obligations of, or assist financially, any person, firm,
13 corporation, or association, and may establish and regulate the
14 terms and conditions with respect to any such loans or financial
15 assistance and the charges for interest and service connected
16 therewith, except that the corporation shall not make or guarantee
17 any loan unless and until it determines:

18 (a) There is no probability that the loan or other financial
19 assistance would be granted by a financial company under
20 reasonable terms or conditions, and the borrower has demonstrated
21 a reasonable prospect of repayment of the loan.

22 (b) The loan proceeds shall be used exclusively in this state.

23 (c) The loan qualifies as a small business loan or an employment
24 incentive loan.

25 (d) That the borrower has a minimum equity interest in the
26 business as determined by the manager.

27 (e) As a result of the loan, the jobs generated or retained
28 demonstrate reasonable conformance to the regulations specifying
29 employment criteria.

30 SEC. 36. Section 14071.5 of the Corporations Code is amended
31 to read:

32 14071.5. In addition to the authority granted by Section 14071,
33 upon approval of the manager, a corporation may act as guarantor
34 on a surety bond for any small business contractor, including, but
35 not limited to, women, minority, and disabled veteran contractors.

36 The provisions of this section allowing a corporation to act as a
37 guarantor on surety bonds may be funded through appropriate
38 federal funding sources. Federal funds shall be deposited in the
39 Federal Trust Fund in the State Treasury in accordance with Section
40 16360 of the Government Code, for transfer to the Small Business

1 Expansion Fund, as created by Section 14030 of the Corporations
2 Code.

3 SEC. 37. Section 14072 of the Corporations Code is amended
4 to read:

5 14072. A corporation may charge the borrower or financial
6 institution a loan fee on all loans made or guaranteed by the
7 corporation to defray the operating expenses of the corporation.
8 The amount of the fee shall be determined by the manager.

9 SEC. 38. Section 14074 of the Corporations Code is amended
10 to read:

11 14074. The office shall enter into an agreement with the
12 California Energy Extension Service of the Office of Planning and
13 Research to assist small business owners in reducing their energy
14 costs through low interest loans and by providing assistance and
15 information.

16 SEC. 39. Section 14075 of the Corporations Code is amended
17 to read:

18 14075. (a) A corporation may, in an area affected by a state
19 of emergency within the state and declared a disaster by the
20 President of the United States, or by the Administrator of the
21 United States Small Business Administration, or by the United
22 States Secretary of Agriculture or declared to be in a state of
23 emergency by the Governor, provide loan guarantees from funds
24 allocated in Section 14037.5 to small businesses, small farms,
25 nurseries, and agriculture-related enterprises that have suffered
26 actual physical damage or significant economic injury as a result
27 of the disaster.

28 (b) The office may adopt regulations to implement the loan
29 guarantee program authorized by this section. The office may adopt
30 these regulations as emergency regulations in accordance with
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
32 3 of the Government Code, and for purposes of that chapter,
33 including Section 11349.6 of the Government Code, the adoption
34 of the regulations shall be considered by the Office of
35 Administrative Law to be necessary for the immediate preservation
36 of the public peace, health and safety, and general welfare.
37 Notwithstanding subdivision (e) of Section 11346.1 of the
38 Government Code, the regulations shall be repealed within 180
39 days after their effective date unless the agency complies with
40 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

1 3 of the Government Code, as provided in subdivision (e) of
2 Section 11346.1 of the Government Code.

3 (c) Allocations pursuant to subdivision (a) shall be deemed to
4 be for extraordinary emergency or disaster response operations
5 costs incurred by the office.

6 SEC. 40. Section 14076 of the Corporations Code, as amended
7 by Section 6 of Chapter 648 of the Statutes of 2012, is amended
8 to read:

9 14076. (a) It is the intent of the Legislature that the
10 corporations make maximal use of their statutory authority to
11 guarantee loans and surety bonds, including the authority to secure
12 loans with a minimum loan loss reserve of only 20 percent, so that
13 the financing needs of small business may be met as fully as
14 possible within the limits of corporations' loan loss reserves. The
15 office shall report annually to the Legislature on the financial status
16 of the corporations and their portfolio of loans and surety bonds
17 guaranteed.

18 (b) Any corporation that serves an area declared to be in a state
19 of emergency by the Governor or a disaster area by the President
20 of the United States, the Administrator of the United States Small
21 Business Administration, or the United States Secretary of
22 Agriculture shall increase the portfolio of loan guarantees where
23 the dollar amount of the loan is less than one hundred thousand
24 dollars (\$100,000), so that at least 15 percent of the dollar value
25 of loans guaranteed by the corporation is for those loans. The
26 corporation shall comply with this requirement within one year of
27 the date the emergency or disaster is declared. Upon application
28 of a corporation, the manager may waive or modify the rule for
29 the corporation if the corporation demonstrates that it made a good
30 faith effort to comply and failed to locate lending institutions in
31 the region that the corporation serves that are willing to make
32 guaranteed loans in that amount.

33 (c) This section shall remain in effect only until January 1, 2018,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2018, deletes or extends that date.

36 SEC. 41. Section 14076 of the Corporations Code, as amended
37 by Section 7 of Chapter 648 of the Statutes of 2012, is amended
38 to read:

39 14076. (a) It is the intent of the Legislature that the
40 corporations make maximal use of their statutory authority to

1 guarantee loans and surety bonds, including the authority to secure
2 loans with a minimum loan loss reserve of only 25 percent, unless
3 the agency authorizes a higher leverage ratio for an individual
4 corporation pursuant to subdivision (b) of Section 14037, so that
5 the financing needs of small business may be met as fully as
6 possible within the limits of corporations' loan loss reserves. The
7 office shall report annually to the Legislature on the financial status
8 of the corporations and their portfolio of loans and surety bonds
9 guaranteed.

10 (b) Any corporation that serves an area declared to be in a state
11 of emergency by the Governor or a disaster area by the President
12 of the United States, the Administrator of the United States Small
13 Business Administration, or the United States Secretary of
14 Agriculture shall increase the portfolio of loan guarantees where
15 the dollar amount of the loan is less than one hundred thousand
16 dollars (\$100,000), so that at least 15 percent of the dollar value
17 of loans guaranteed by the corporation is for those loans. The
18 corporation shall comply with this requirement within one year of
19 the date the emergency or disaster is declared. Upon application
20 of a corporation, the manager may waive or modify the rule for
21 the corporation if the corporation demonstrates that it made a good
22 faith effort to comply and failed to locate lending institutions in
23 the region that the corporation serves that are willing to make
24 guaranteed loans in that amount.

25 (c) This section shall become operative on January 1, 2018.

26 SEC. 42. Section 14085 of the Corporations Code is amended
27 to read:

28 14085. It shall be unlawful for the manager or any person who
29 is an officer, director, or employee of a corporation, or who is a
30 member of a loan committee, or who is an employee of the office
31 to:

32 (a) Ask for, consent, or agree to receive, any commission,
33 emolument, gratuity, money, property, or thing of value for his or
34 her own use, benefit, or personal advantage, for procuring or
35 endeavoring to procure for any person, partnership, joint venture,
36 association, or corporation, any loan, guarantee, financial, or other
37 assistance from any corporation.

38 (b) Borrow money, property, or to benefit knowingly, directly
39 or indirectly, from the use of the money, credit, or property of any
40 corporation.

1 (c) Make, maintain, or attempt to make or maintain, a deposit
2 of the funds of a corporation with any other corporation or
3 association on condition, or with the understanding, expressed or
4 implied, that the corporation or association receiving the deposit
5 shall pay any money or make a loan or advance, directly or
6 indirectly, to any person, partnership, joint venture, association,
7 or corporation, other than to a corporation formed under this part.

8 SEC. 43. Section 14086 of the Corporations Code is amended
9 to read:

10 14086. It shall be unlawful for the manager or any person who
11 is an officer or director of a corporation, or who is an employee
12 of the office, to purchase or receive, or to be otherwise interested
13 in the purchase or receipt, directly or indirectly, of any asset of a
14 corporation, without paying to the corporation the fair market value
15 of the asset at the time of the transaction.

16 SEC. 44. Section 29503 of the Corporations Code is amended
17 to read:

18 29503. “Commissioner” means the Commissioner of Business
19 Oversight.

20 SEC. 45. Section 31004 of the Corporations Code is amended
21 to read:

22 31004. “Commissioner” means the Commissioner of Business
23 Oversight.

24 SEC. 46. Section 300 of the Financial Code, as amended by
25 Section 5 of Chapter 147 of the Statutes of 2012, is amended to
26 read:

27 300. (a) In this section:

28 (1) “Business and industrial development corporation” means
29 a corporation licensed under Division 15 (commencing with
30 Section 31000).

31 (2) “Payment instrument” has the same meaning as set forth in
32 Section 33059.

33 (3) “Traveler’s check” has the same meaning as set forth in
34 Section 1803.

35 (b) There is in the state government, in the Business, Consumer
36 Services, and Housing Agency, a Department of Business
37 Oversight, which has charge of the execution of, among other laws,
38 the laws of this state relating to any of the following: (1) banks or
39 trust companies or the banking or trust business; (2) savings
40 associations or the savings association business; (3) credit unions

1 or the credit union business; (4) persons who engage in the business
2 of receiving money for transmission to foreign nations or such
3 business; (5) issuers of traveler's checks or the traveler's check
4 business; (6) issuers of payment instruments or the payment
5 instrument business; (7) business and industrial development
6 corporations or the business and industrial development corporation
7 business; (8) insurance premium finance agencies or the insurance
8 premium finance business; (9) persons offering or making any
9 contract constituting bucketing; (10) persons offering or selling
10 off-exchange commodities; (11) deferred deposit originators; (12)
11 finance lenders and brokers; (13) residential mortgage lenders and
12 servicers; (14) capital access companies; (15) check sellers, bill
13 payers, and proraters; (16) securities issuers, broker-dealers, agents,
14 investment advisers, and investment adviser representatives; (17)
15 mortgage loan originators employed or supervised by finance
16 lenders or residential mortgage lenders; (18) escrow agents; (19)
17 franchisors, or (20) persons holding securities as custodians on
18 behalf of securities owners.

19 SEC. 47. Section 301 of the Financial Code is amended to read:

20 301. (a) This chapter is applicable to this division, Division
21 1.1 (commencing with Section 1000), Division 1.2 (commencing
22 with Section 2000), Division 1.6 (commencing with Section 4800),
23 Division 5 (commencing with Section 14000), Division 7
24 (commencing with Section 18000), and Division 15 (commencing
25 with Section 31000).

26 (b) Except as provided in subdivision (c), this article, and
27 Articles 2 (commencing with Section 320) and 3 (commencing
28 with Section 350) are applicable to the administration of laws by
29 the Division of Corporations.

30 (c) Sections 329, 330, 332, 335, 336, 357, 378, 379, and 381
31 are not applicable to the Division of Corporations.

32 SEC. 48. Section 320 of the Financial Code is amended to read:

33 320. (a) The chief officer of the Department of Business
34 Oversight is the Commissioner of Business Oversight. The
35 Commissioner of Business Oversight is the head of the department
36 with the authority and responsibility over all officers, employees,
37 and activities in the department and, except as otherwise provided
38 in this code and the Corporations Code, is subject to the provisions
39 of the Government Code relating to department heads.

1 (b) The Commissioner of Business Oversight shall employ legal
2 counsel to act as the attorney for the commissioner in actions or
3 proceedings brought by or against the commissioner under or
4 pursuant to any law under the commissioner's jurisdiction, or in
5 which the commissioner joins or intervenes as to a matter within
6 the commissioner's jurisdiction, as a friend of the court or
7 otherwise, and stenographic reporters to take and transcribe the
8 testimony in any formal hearing or investigation before the
9 commissioner or before a person authorized by the commissioner.

10 (c) Sections 11040, 11042, and 11043 of the Government Code
11 do not apply to the Commissioner of Business Oversight.

12 SEC. 49. Section 326 of the Financial Code is amended to read:

13 326. The Commissioner of Business Oversight is responsible
14 for the performance of all duties, the exercise of all powers and
15 jurisdiction, and the assumption and discharge of all responsibilities
16 vested by law in the department and the divisions thereunder. The
17 commissioner has and may exercise all the powers necessary or
18 convenient for the administration and enforcement of, among other
19 laws, the laws described in Section 300. The commissioner may
20 issue rules and regulations consistent with law as he or she may
21 deem necessary or advisable in executing the powers, duties, and
22 responsibilities of the department.

23 SEC. 50. Section 350 of the Financial Code is amended to read:

24 350. The chief deputy shall be appointed by the Governor and
25 hold office at the pleasure of the Governor. The annual salary of
26 the chief deputy shall be fixed by the Governor.

27 SEC. 51. Section 351 of the Financial Code is repealed.

28 SEC. 52. Section 351 is added to the Financial Code, to read:

29 351. (a) The chief officer of the Division of Corporations is
30 the Senior Deputy Commissioner of Business Oversight for the
31 Division of Corporations. The Senior Deputy Commissioner of
32 Business Oversight for the Division of Corporations shall, under
33 the direction of the commissioner, administer the laws of this state
34 that were, prior to July 1, 2013, under the charge of the Department
35 of Corporations. The Senior Deputy Commissioner of Business
36 Oversight for the Division of Corporations shall be appointed by
37 the Governor, *subject to Senate confirmation*, and shall hold office
38 at the pleasure of the Governor. The Senior Deputy Commissioner
39 of Business Oversight for the Division of Corporations shall receive
40 an annual salary as fixed by the Governor.

(b) The chief officer of the Division of Financial Institutions is the Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions. The Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions. The Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall be appointed by the Governor, *subject to Senate confirmation*, and shall hold office at the pleasure of the Governor. The Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall receive an annual salary as fixed by the Governor.

SEC. 53. Section 353 of the Financial Code is amended to read:

353. Before entering upon the duties of his office each deputy and examiner shall take and subscribe to the constitutional oath of office.

SEC. 54. Section 355 of the Financial Code is amended to read:

~~355. Neither the commissioner nor~~ *The Commissioner of Business Oversight, the Senior Deputy Commissioner of the Division of Financial Institutions, or any deputy or employee of the department Division of Financial Institutions shall not do or* be any of the following with respect to any bank, savings association, credit union, or industrial loan company supervised by the department:

(a) Be indebted, directly or indirectly, as borrower, endorser, surety, or guarantor to any such bank, savings association, credit union, or industrial loan company.

(b) Be an officer, director, or employee of any such bank, savings association, credit union, or industrial loan company.

(c) Own or deal in directly or indirectly, the shares or obligations of any such bank, savings association, credit union, or industrial loan company.

(d) Be interested in or, directly or indirectly, receive from any such bank, savings association, credit union, or industrial loan company or any officer, director, or employee thereof, any salary, fee, compensation, or other valuable thing by way of gift, credit, compensation for services, or otherwise. However, this subdivision does not prohibit any person from being interested in or directly

1 or indirectly receiving (1) anything which is expressly excluded
2 from a definition of “gift” or “honorarium” in the Political Reform
3 Act of 1974 (Title 9 (commencing with Section 81000) of the
4 Government Code) or in regulations issued under the Political
5 Reform Act of 1974 by the Fair Political Practices Commission
6 or (2) anything which, if received by the commissioner, would
7 constitute a gift or honorarium within the meaning of the Political
8 Reform Act of 1974 or regulations issued under the Political
9 Reform Act of 1974 by the Fair Political Practices Commission
10 but which the commissioner would not be prohibited from
11 receiving under the Political Reform Act of 1974 or regulations
12 issued under the Political Reform Act of 1974 by the Fair Political
13 Practices Commission.

14 (e) Be interested in or engage in the negotiation of any loan to,
15 obligation of, or accommodation for another person to or with any
16 such bank, savings association, credit union, or industrial loan
17 company.

18 Notwithstanding the foregoing the commissioner and any deputy
19 or employee may have and maintain one or more deposit or similar
20 accounts in any bank, savings association, credit union, or industrial
21 loan company in this state and may maintain with any bank, savings
22 association, credit union, or industrial loan company in this state
23 a loan which was not obtained in violation of this section if the
24 person reports the loan in writing to the department within 30 days
25 after the person commences his or her term of appointment or
26 employment with the department and if the loan is not renewed,
27 renegotiated, extended, or otherwise modified on or after July 1,
28 1997.

29 A violation of this section by any person shall constitute
30 sufficient grounds for his or her removal or discharge.

31 ~~SEC. 54.~~

32 *SEC. 55.* Section 371 of the Financial Code is repealed.

33 ~~SEC. 55.~~

34 *SEC. 56.* Section 371 is added to the Financial Code, to read:

35 371. (a) There is in the Department of Business Oversight, the
36 Division of Corporations, under the direction of the Senior Deputy
37 Commissioner of Business Oversight for the Division of
38 Corporations. The senior deputy commissioner has charge of the
39 execution of the laws of the state that were, prior to July 1, 2013,
40 under the charge of the Department of Corporations.

(b) There is in the Department of Business Oversight, the Senior Deputy Commissioner of the Department of Business Oversight for the Division of Financial Institutions. Under the direction of the senior deputy commissioner, the Division of Financial Institutions has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions.

~~SEC. 56.~~

SEC. 57. Section 4805.055 of the Financial Code is amended to read:

4805.055. “Commissioner” means the Commissioner of Business Oversight.

~~SEC. 57.~~

SEC. 58. Section 5104 of the Financial Code is amended to read:

5104. “Commissioner” means the Commissioner of Business Oversight.

~~SEC. 58.~~

SEC. 59. Section 12003 of the Financial Code is amended to read:

12003. “Commissioner” means the Commissioner of Business Oversight, or any deputy, investigator, auditor, or any other person employed by him or her.

~~SEC. 59.~~

SEC. 60. Section 14003 of the Financial Code is amended to read:

14003. “Commissioner” means the Commissioner of Business Oversight.

~~SEC. 60.~~

SEC. 61. Section 14200.1 of the Financial Code is amended to read:

14200.1. There is in the Division of Financial Institutions of the Department of Business Oversight the Office of Credit Unions. The Office of Credit Unions has charge of the execution of the laws of this state relating to credit unions or to the credit union business.

~~SEC. 61.~~

SEC. 62. Section 14200.2 of the Financial Code is amended to read:

1 14200.2. The chief officer of the Office of Credit Unions is
2 the Deputy Commissioner of the Office of Credit Unions. The
3 Deputy Commissioner of the Office of Credit Unions, under the
4 direction and on behalf of the Senior Deputy Commissioner for
5 Business Oversight for the Division of Financial Institutions, shall
6 administer the laws of this state relating to credit unions or the
7 credit union business. The Deputy Commissioner of the Office of
8 Credit Unions shall be appointed by the Governor and shall hold
9 office at the pleasure of the Governor. The Deputy Commissioner
10 of the Office of Credit Unions shall receive an annual salary as
11 fixed by the Governor.

12 ~~SEC. 62.~~

13 *SEC. 63.* Section 17002 of the Financial Code is amended to
14 read:

15 17002. “Commissioner” means the Commissioner of Business
16 Oversight.

17 ~~SEC. 63.~~

18 *SEC. 64.* Section 18002 of the Financial Code is amended to
19 read:

20 18002. “Commissioner” means the Commissioner of Business
21 Oversight.

22 ~~SEC. 64.~~

23 *SEC. 65.* Section 22005 of the Financial Code is amended to
24 read:

25 22005. “Commissioner” means the Commissioner of Business
26 Oversight.

27 ~~SEC. 65.~~

28 *SEC. 66.* Section 30002 of the Financial Code is amended to
29 read:

30 30002. “Commissioner” means the Commissioner of Business
31 Oversight.

32 ~~SEC. 66.~~

33 *SEC. 67.* Section 31055 of the Financial Code is amended to
34 read:

35 31055. “Commissioner” means the Commissioner of Business
36 Oversight, or other person to whom the commissioner delegates
37 the authority to act for him or her in the particular matter.

38 ~~SEC. 67.~~

39 *SEC. 68.* Section 50003 of the Financial Code is amended to
40 read:

1 50003. (a) “Annual audit” means a certified audit of the
2 licensee’s books, records, and systems of internal control performed
3 by an independent certified public accountant in accordance with
4 generally accepted accounting principles and generally accepted
5 auditing standards.

6 (b) “Borrower” means the loan applicant.

7 (c) “Buy” includes exchange, offer to buy, or solicitation to
8 buy.

9 (d) “Commissioner” means the Commissioner of Business
10 Oversight.

11 (e) “Control” means the possession, directly or indirectly, of
12 the power to direct, or cause the direction of, the management and
13 policies of a licensee under this division, whether through voting
14 or through the ownership of voting power of an entity that
15 possesses voting power of the licensee, or otherwise. Control is
16 presumed to exist if a person, directly or indirectly, owns, controls,
17 or holds 10 percent or more of the voting power of a licensee or
18 of an entity that owns, controls, or holds, with power to vote, 10
19 percent or more of the voting power of a licensee. No person shall
20 be deemed to control a licensee solely by reason of his or her status
21 as an officer or director of the licensee.

22 (f) “Depository institution” has the same meaning as in Section
23 3 of the Federal Deposit Insurance Act, and includes any credit
24 union.

25 (g) “Engage in the business” means the dissemination to the
26 public, or any part of the public, by means of written, printed, or
27 electronic communication or any communication by means of
28 recorded telephone messages or spoken on radio, television, or
29 similar communications media, of any information relating to the
30 making of residential mortgage loans, the servicing of residential
31 mortgage loans, or both. “Engage in the business” also means,
32 without limitation, making residential mortgage loans or servicing
33 residential mortgage loans, or both.

34 (h) “Federal banking agencies” means the Board of Governors
35 of the Federal Reserve System, the Comptroller of the Currency,
36 the National Credit Union Administration, and the Federal Deposit
37 Insurance Corporation.

38 (i) “In this state” includes any activity of a person relating to
39 making or servicing a residential mortgage loan that originates
40 from this state and is directed to persons outside this state, or that

1 originates from outside this state and is directed to persons inside
2 this state, or that originates inside this state and is directed to
3 persons inside this state, or that leads to the formation of a contract
4 and the offer or acceptance thereof is directed to a person in this
5 state (whether from inside or outside this state and whether the
6 offer was made inside or outside the state).

7 (j) “Institutional investor” means the following:

8 (1) The United States or any state, district, territory, or
9 commonwealth thereof, or any city, county, city and county, public
10 district, public authority, public corporation, public entity, or
11 political subdivision of a state, district, territory, or commonwealth
12 of the United States, or any agency or other instrumentality of any
13 one or more of the foregoing, including, by way of example, the
14 Federal National Mortgage Association and the Federal Home
15 Loan Mortgage Corporation.

16 (2) Any bank, trust company, savings bank or savings and loan
17 association, credit union, industrial bank or industrial loan
18 company, personal property broker, consumer finance lender,
19 commercial finance lender, or insurance company, or subsidiary
20 or affiliate of one of the preceding entities, doing business under
21 the authority of or in accordance with a license, certificate, or
22 charter issued by the United States or any state, district, territory,
23 or commonwealth of the United States.

24 (3) Trustees of pension, profit-sharing, or welfare funds, if the
25 pension, profit-sharing, or welfare fund has a net worth of not less
26 than fifteen million dollars (\$15,000,000), except pension,
27 profit-sharing, or welfare funds of a licensee or its affiliate,
28 self-employed individual retirement plans, or individual retirement
29 accounts.

30 (4) A corporation or other entity with outstanding securities
31 registered under Section 12 of the federal Securities Exchange Act
32 of 1934 or a wholly owned subsidiary of that corporation or entity,
33 provided that the purchaser represents either of the following:

34 (A) That it is purchasing for its own account for investment and
35 not with a view to, or for sale in connection with, any distribution
36 of a promissory note.

37 (B) That it is purchasing for resale pursuant to an exemption
38 under Rule 144A (17 C.F.R. 230.144A) of the Securities and
39 Exchange Commission.

1 (5) An investment company registered under the Investment
2 Company Act of 1940; or a wholly owned and controlled subsidiary
3 of that company, provided that the purchaser makes either of the
4 representations provided in paragraph (4).

5 (6) A residential mortgage lender or servicer licensed to make
6 residential mortgage loans under this law or an affiliate or
7 subsidiary of that person.

8 (7) Any person who is licensed as a securities broker or
9 securities dealer under any law of this state, or of the United States,
10 or any employee, officer, or agent of that person, if that person is
11 acting within the scope of authority granted by that license or an
12 affiliate or subsidiary controlled by that broker or dealer, in
13 connection with a transaction involving the offer, sale, purchase,
14 or exchange of one or more promissory notes secured directly or
15 indirectly by liens on real property or a security representing an
16 ownership interest in a pool of promissory notes secured directly
17 or indirectly by liens on real property, and the offer and sale of
18 those securities is qualified under the California Corporate
19 Securities Law of 1968 or registered under federal securities laws,
20 or exempt from qualification or registration.

21 (8) A licensed real estate broker selling the loan to an
22 institutional investor specified in paragraphs (1) to (7), inclusive,
23 or paragraph (9) or (10).

24 (9) A business development company as defined in Section
25 2(a)(48) of the Investment Company Act of 1940 or a Small
26 Business Investment Company licensed by the United States Small
27 Business Administration under Section 301(c) or (d) of the Small
28 Business Investment Act of 1958.

29 (10) A syndication or other combination of any of the foregoing
30 entities that is organized to purchase a promissory note.

31 (11) A trust or other business entity established by an
32 institutional investor for the purpose of issuing or facilitating the
33 issuance of securities representing undivided interests in, or rights
34 to receive payments from or to receive payments primarily from,
35 a pool of financial assets held by the trust or business entity,
36 provided that all of the following apply:

37 (A) The business entity is not a sole proprietorship.

38 (B) The pool of assets consists of one or more of the following:

39 (i) Interest-bearing obligations.

1 (ii) Other contractual obligations representing the right to receive
2 payments from the assets.

3 (iii) Surety bonds, insurance policies, letters of credit, or other
4 instruments providing credit enhancement for the assets.

5 (C) The securities will be either one of the following:

6 (i) Rated as “investment grade” by Standard and Poor’s
7 Corporation or Moody’s Investors Service, Inc. “Investment grade”
8 means that the securities will be rated by Standard and Poor’s
9 Corporation as AAA, AA, A, or BBB or by Moody’s Investors
10 Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings
11 with “+” or “—” designation or other variations that occur within
12 those ratings.

13 (ii) Sold to an institutional investor.

14 (D) The offer and sale of the securities is qualified under the
15 California Corporate Securities Law of 1968 or registered under
16 federal securities laws, or exempt from qualification or registration.

17 (k) “Institutional lender” means the following:

18 (1) The United States or any state, district, territory, or
19 commonwealth thereof, or any city, county, city and county, public
20 district, public authority, public corporation, public entity, or
21 political subdivision of a state, district, territory, or commonwealth
22 of the United States, or any agency or other instrumentality of any
23 one or more of the foregoing, including, by way of example, the
24 Federal National Mortgage Association and the Federal Home
25 Loan Mortgage Corporation.

26 (2) Any bank, trust company, savings bank or savings and loan
27 association, credit union, industrial loan company, or insurance
28 company, or service or investment company that is wholly owned
29 and controlled by one of the preceding entities, doing business
30 under the authority of and in accordance with a license, certificate,
31 or charter issued by the United States or any state, district, territory,
32 or commonwealth of the United States.

33 (3) Any corporation with outstanding securities registered under
34 Section 12 of the Securities Exchange Act of 1934 or any wholly
35 owned subsidiary of that corporation.

36 (4) A residential mortgage lender or servicer licensed to make
37 residential mortgage loans under this law.

38 (l) “Law” means the California Residential Mortgage Lending
39 Act.

(m) “Lender” means a person that (1) is an approved lender for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, (2) directly makes residential mortgage loans, and (3) makes the credit decision in the loan transactions.

(n) “Licensee” means, depending on the context, a person licensed under Chapter 2 (commencing with Section 50120), Chapter 3 (commencing with Section 50130), or Chapter 3.5 (commencing with Section 50140).

(o) “Makes or making residential mortgage loans” or “mortgage lending” means processing, underwriting, or as a lender using or advancing one’s own funds, or making a commitment to advance one’s own funds, to a loan applicant for a residential mortgage loan.

(p) “Mortgage loan,” “residential mortgage loan,” or “home mortgage loan” means a federally related mortgage loan as defined in Section 3500.2 of Title 24 of the Code of Federal Regulations, or a loan made to finance construction of a one-to-four family dwelling.

(q) “Mortgage servicer” or “residential mortgage loan servicer” means a person that (1) is an approved servicer for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, and (2) directly services or offers to service mortgage loans.

(r) “Nationwide Mortgage Licensing System and Registry” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

(s) “Net worth” has the meaning set forth in Section 50201.

(t) “Own funds” means (1) cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on a lender’s financial statements, whether secured or unsecured, or (2) a lender’s affiliate’s cash, corporate capital, or warehouse credit lines at commercial banks or other sources

1 that are liability items on the affiliate's financial statements,
2 whether secured or unsecured. "Own funds" does not include funds
3 provided by a third party to fund a loan on condition that the third
4 party will subsequently purchase or accept an assignment of that
5 loan.

6 (u) "Person" means a natural person, a sole proprietorship, a
7 corporation, a partnership, a limited liability company, an
8 association, a trust, a joint venture, an unincorporated organization,
9 a joint stock company, a government or a political subdivision of
10 a government, and any other entity.

11 (v) "Residential real property" or "residential real estate" means
12 real property located in this state that is improved by a one-to-four
13 family dwelling.

14 (w) "SAFE Act" means the federal Secure and Fair Enforcement
15 for Mortgage Licensing Act of 2008 (Public Law 110-289).

16 (x) "Service" or "servicing" means receiving more than three
17 installment payments of principal, interest, or other amounts placed
18 in escrow, pursuant to the terms of a mortgage loan and performing
19 services by a licensee relating to that receipt or the enforcement
20 of its receipt, on behalf of the holder of the note evidencing that
21 loan.

22 (y) "Sell" includes exchange, offer to sell, or solicitation to sell.

23 (z) "Unique identifier" means a number or other identifier
24 assigned by protocols established by the Nationwide Mortgage
25 Licensing System and Registry.

26 (aa) For purposes of Sections 50142, 50143, and 50145,
27 "nontraditional mortgage product" means any mortgage product
28 other than a 30-year fixed rate mortgage.

29 (ab) For purposes of Section 50141, "expungement" means the
30 subsequent order under the provisions of Section 1203.4 of the
31 Penal Code allowing such individual to withdraw his or her plea
32 of guilty and to enter a plea of not guilty, or setting aside the verdict
33 of guilty or dismissing the accusation, information, or indictment.
34 With respect to criminal convictions in another state, that state's
35 definition of expungement will apply.

36 ~~SEC. 68.~~

37 *SEC. 69.* Section 8684.2 of the Government Code is amended
38 to read:

39 8684.2. (a) It is the intent of the Legislature:

1 (1) To provide the Governor with appropriate emergency powers
2 in order to enable utilization of available emergency funding to
3 provide guarantees for interim loans to be made by lending
4 institutions, in connection with relief provided for those persons
5 affected by disasters or a state of emergency in affected areas
6 during periods of disaster relief assistance, for the purpose of
7 supplying interim financing to enable small businesses to continue
8 operations pending receipt of federal disaster assistance.

9 (2) That the Governor should utilize this authority to prevent
10 business insolvencies and loss of employment in areas affected by
11 these disasters.

12 (b) In addition to the allocations authorized by Section 8683
13 and the loan guarantee provisions of Section 14030.1 of the
14 Corporations Code, the Governor may allocate funds made
15 available for the purposes of this chapter, in connection with relief
16 provided, in affected areas during the period of federal disaster
17 relief, to the Small Business Expansion Fund for use by the
18 Governor's Office of Business and Economic Development,
19 pursuant to Chapter 1 (commencing with Section 14000) of Part
20 5 of Division 3 of Title 1 of the Corporations Code, to provide
21 guarantees for low-interest interim loans to be made by lending
22 institutions for the purpose of providing interim financing to enable
23 small businesses that have suffered actual physical damage or
24 significant economic losses, as a result of the disaster or state of
25 emergency for which funding under this section is made available,
26 to continue or resume operations pending receipt of loans made
27 or guaranteed by the federal Small Business Administration. The
28 maximum amount of any loan guarantee funded under this
29 paragraph shall not exceed two hundred thousand dollars
30 (\$200,000). Each loan guarantee shall not exceed 95 percent of
31 the loan amount, except that a loan guarantee may be for 100
32 percent of the loan amount if the applicant can demonstrate that
33 access to business records pertinent to the loan application has
34 been precluded by official action prohibiting necessary reentry
35 into the affected business premises or that those business records
36 pertinent to the loan application have been destroyed. The term of
37 the loan shall be determined by the lending institution providing
38 the loan or shall be made payable on the date the proceeds of a
39 loan made or guaranteed by the federal Small Business

1 Administration with respect to the same damage or loss are made
2 available to the borrower, whichever event first occurs.

3 (c) Loan guarantees for which the initial 12-month term has
4 expired and for which an application for disaster assistance funding
5 from the federal Small Business Administration is still pending
6 may be extended until the Small Business Administration has
7 reached a final decision on the application. Applications for interim
8 loans shall be processed in an expeditious manner. Wherever
9 possible, lending institutions shall fund nonconstruction loans
10 within 60 calendar days of application. Loan guarantees for loans
11 that have been denied funding by the federal Small Business
12 Administration, may be extended by the financial institution
13 provided that the loan is for no longer than a maximum of seven
14 years, if the business demonstrates the ability to repay the loan
15 with an extended loan term, and a new credit analysis is provided.
16 All loans extended under this provision shall be repaid in
17 installments of principal and interest, and be fully amortized over
18 the term of the loan. This section shall not preclude the lender from
19 charging reasonable administrative fees in connection with the
20 loan.

21 (d) Allocations pursuant to this section shall, for purposes of
22 all provisions of law, be deemed to be for extraordinary emergency
23 or disaster response operation costs, as provided in Section 8690.6,
24 incurred by state employees assigned to work on the financial
25 development corporation program.

26 (e) The Governor's Office of Business and Economic
27 Development may adopt regulations to implement the loan
28 guarantee program authorized by this section. The Governor's
29 Office of Business and Economic Development may adopt these
30 regulations as emergency regulations in accordance with Chapter
31 3.5 (commencing with Section 11340) of Part 1 of Division 3, and
32 for purposes of that chapter, including Section 11349.6, the
33 adoption of the regulations shall be considered by the Office of
34 Administrative Law to be necessary for the immediate preservation
35 of the public peace, health and safety, and general welfare.
36 Notwithstanding subdivision (e) of Section 11346.1, the regulations
37 shall be repealed within 180 days after their effective date unless
38 the agency complies with Chapter 3.5 (commencing with Section
39 11340) of Part 1 of Division 3, as provided in subdivision (e) of
40 Section 11346.1.

(f) Within 60 days of the conclusion of the period for guaranteeing loans under any small business disaster loan guarantee program conducted for a disaster as authorized by Section 8684.2, or Section 14075 of the Corporations Code, the Governor's Office of Business and Economic Development shall provide a report to the Legislature on loan guarantees approved and rejected by gender, ethnic group, type of business and location, and each participating loan institution.

~~SEC. 69.~~

SEC. 70. Section 11532 of the Government Code is amended to read:

11532. For purposes of this chapter, the following terms shall have the following meanings, unless the context requires otherwise:

(a) "Chief" means the Chief of the Office of Technology Services.

(b) "Technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, and business telecommunications systems and services.

(c) "Business telecommunications systems and services" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. Public safety communications are excluded from this definition.

(d) "Public agencies" include, but are not limited to, all state and local governmental agencies in the state, including cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.

~~SEC. 70.~~

SEC. 71. Section 11534 of the Government Code is amended to read:

11534. (a) There is in the Government Operations Agency, in the Department of Technology, the Office of Technology Services.

(b) The purpose of this article is to establish a general purpose technology services provider to serve the common technology needs of executive branch entities with accountability to customers

1 for providing secure services that are responsive to client needs at
2 a cost representing best value to the state.

3 (c) The purpose of this chapter is to improve and coordinate the
4 use of technology and to coordinate and cooperate with all public
5 agencies in the state in order to eliminate duplications and to bring
6 about economies that could not otherwise be obtained.

7 (d) Unless the context clearly requires otherwise, whenever the
8 term “Department of Technology Services” appears in any statute,
9 regulation, or contract, it shall be deemed to refer to the Office of
10 Technology Services, and whenever the term “Director of
11 Technology Services” appears in statute, regulation, or contract,
12 it shall be deemed to refer to the Chief of the Office of Technology
13 Services.

14 (e) Unless the context clearly requires otherwise, the Office of
15 Technology Services and the Director of Technology succeed to
16 and are vested with all the duties, powers, purposes,
17 responsibilities, and jurisdiction vested in the former Department
18 of Technology Services and the former Director of Technology
19 Services, or Secretary of California Technology, respectively.

20 (f) All employees serving in state civil service, other than
21 temporary employees, who are engaged in the performance of
22 functions transferred to the Office of Technology Services, are
23 transferred to the Office of Technology Services. The status,
24 positions, and rights of those persons shall not be affected by their
25 transfer and shall continue to be retained by them pursuant to the
26 State Civil Service Act (Part 2 (commencing with Section 18500)
27 of Division 5), except as to positions the duties of which are vested
28 in a position exempt from civil service. The personnel records of
29 all transferred employees shall be transferred to the Office of
30 Technology Services.

31 (g) The property of any office, agency, or department related
32 to functions transferred to the Office of Technology Services is
33 transferred to the Office of Technology Services. If any doubt
34 arises as to where that property is transferred, the Department of
35 General Services shall determine where the property is transferred.

36 (h) All unexpended balances of appropriations and other funds
37 available for use in connection with any function or the
38 administration of any law transferred to the Office of Technology
39 Services shall be transferred to the Office of Technology Services
40 for the use and for the purpose for which the appropriation was

1 originally made or the funds were originally available. If there is
2 any doubt as to where those balances and funds are transferred,
3 the Department of Finance shall determine where the balances and
4 funds are transferred.

5 ~~SEC. 71.~~

6 *SEC. 72.* Section 11538 of the Government Code is amended
7 to read:

8 11538. The Chief of the Office of Technology Services shall
9 be appointed by, and serve at the pleasure of, the Governor, subject
10 to Senate confirmation. The chief shall report to the Director of
11 Technology.

12 ~~SEC. 72.~~

13 *SEC. 73.* Section 11539 of the Government Code is amended
14 to read:

15 11539. The chief shall be responsible for managing the affairs
16 of the Office of Technology Services and shall perform all duties,
17 exercise all powers and jurisdiction, and assume and discharge all
18 responsibilities necessary to carry out the purposes of this chapter.
19 The Office of Technology Services shall employ professional,
20 clerical, technical, and administrative personnel as necessary to
21 carry out this chapter.

22 ~~SEC. 73.~~

23 *SEC. 74.* Section 11540 of the Government Code is amended
24 to read:

25 11540. The Director of Technology shall propose to the
26 Director of Finance rates for Office of Technology Services'
27 services based on a formal rate methodology. The Director of
28 Finance shall approve the proposal based on the reasonableness
29 of the rates and any significant impact on departmental budgets.
30 The Director of Technology and the Director of Finance shall
31 coordinate to develop policies and procedures to implement this
32 section, including, but not limited to, the format and timeframe of
33 the rate proposal.

34 ~~SEC. 74.~~

35 *SEC. 75.* Section 11541 of the Government Code is amended
36 to read:

37 11541. (a) The Office of Technology Services may acquire,
38 install, equip, maintain, and operate new or existing business
39 telecommunications systems and services. Acquisitions for
40 information technology goods and services shall be made pursuant

1 to Chapter 3 (commencing with Section 12100) of Part 2 of
2 Division 2 of the Public Contract Code. To accomplish that
3 purpose, the Office of Technology Services may enter into
4 contracts, obtain licenses, acquire personal property, install
5 necessary equipment and facilities, and do other acts that will
6 provide adequate and efficient business telecommunications
7 systems and services. Any system established shall be made
8 available to all public agencies in the state on terms that may be
9 agreed upon by the agency and the Office of Technology Services.

10 (b) With respect to business telecommunications systems and
11 services, the Office of Technology Services may do all of the
12 following:

13 (1) Provide representation of public agencies before the Federal
14 Communications Commission in matters affecting the state and
15 other public agencies regarding business telecommunications
16 systems and services issues.

17 (2) Provide, upon request, advice to public agencies concerning
18 existing or proposed business telecommunications systems and
19 services between any and all public agencies.

20 (3) Recommend to public agencies rules, regulations,
21 procedures, and methods of operation that it deems necessary to
22 effectuate the most efficient and economical use of business
23 telecommunications systems and services within the state.

24 (4) Carry out the policies of this chapter.

25 (c) The Office of Technology Services has responsibilities with
26 respect to business telecommunications systems, services, policy,
27 and planning, which include, but are not limited to, all of the
28 following:

29 (1) Assessing the overall long-range business
30 telecommunications needs and requirements of the state
31 considering both routine and emergency operations for business
32 telecommunications systems and services, performance, cost,
33 state-of-the-art technology, multiuser availability, security,
34 reliability, and other factors deemed to be important to state needs
35 and requirements.

36 (2) Developing strategic and tactical policies and plans for
37 business telecommunications with consideration for the systems
38 and requirements of public agencies.

1 (3) Recommending industry standards, service level agreements,
2 and solutions regarding business telecommunications systems and
3 services to ensure multiuser availability and compatibility.

4 (4) Providing advice and assistance in the selection of business
5 telecommunications equipment to ensure all of the following:

6 (A) Ensuring that the business telecommunications needs of
7 state agencies are met.

8 (B) Ensuring that procurement is compatible throughout state
9 agencies and is consistent with the state's strategic and tactical
10 plans for telecommunications.

11 (C) Ensuring that procurement is designed to leverage the buying
12 power of the state and encourage economies of scale.

13 (5) Providing management oversight of statewide business
14 telecommunications systems and services developments.

15 (6) Providing for coordination of, and comment on, plans and
16 policies and operational requirements from departments that utilize
17 business telecommunications systems and services as determined
18 by the Office of Technology Services.

19 (7) Monitoring and participating, on behalf of the state, in the
20 proceedings of federal and state regulatory agencies and in
21 congressional and state legislative deliberations that have an impact
22 on state governmental business telecommunications activities.

23 (d) The Office of Technology Services shall develop and
24 describe statewide policy on the use of business
25 telecommunications systems and services by state agencies. In the
26 development of that policy, the Office of Technology Services
27 shall ensure that access to state business information and services
28 is improved, and that the policy is cost effective for the state and
29 its residents. The Office of Technology Services shall develop
30 guidelines that do all of the following:

31 (1) Describe what types of state business information and
32 services may be accessed using business telecommunications
33 systems and services.

34 (2) Characterize the conditions under which a state agency may
35 utilize business telecommunications systems and services.

36 (3) Characterize the conditions under which a state agency may
37 charge for information and services.

38 (4) Specify pricing policies.

39 (5) Provide other guidance as may be appropriate at the
40 discretion of the Office of Technology Services.

1 ~~SEC. 75.~~

2 *SEC. 76.* Section 11542 of the Government Code is amended
3 to read:

4 11542. (a) (1) The Stephen P. Teale Data Center and the
5 California Health and Human Services Agency Data Center are
6 consolidated within, and their functions are transferred to, the
7 Office of Technology Services.

8 (2) Except as expressly provided otherwise in this chapter, the
9 Office of Technology Services is the successor to, and is vested
10 with, all of the duties, powers, purposes, responsibilities, and
11 jurisdiction of the Stephen P. Teale Data Center, and the California
12 Health and Human Services Agency Data Center. Any reference
13 in statutes, regulations, or contracts to those entities with respect
14 to the transferred functions shall be construed to refer to the Office
15 of Technology Services unless the context clearly requires
16 otherwise.

17 (3) A contract, lease, license, or any other agreement to which
18 either the Stephen P. Teale Data Center or the California Health
19 and Human Services Agency Data Center is a party shall not be
20 void or voidable by reason of this chapter, but shall continue in
21 full force and effect, with the Office of Technology Services
22 assuming all of the rights, obligations, and duties of the Stephen
23 P. Teale Data Center or the California Health and Human Services
24 Agency Data Center, respectively.

25 (4) Notwithstanding subdivision (e) of Section 11793 and
26 subdivision (e) of Section 11797, on and after the effective date
27 of this chapter, the balance of any funds available for expenditure
28 by the Stephen P. Teale Data Center and the California Health and
29 Human Services Agency Data Center, with respect to business
30 telecommunications systems and services functions in carrying
31 out any functions transferred to the Office of Technology Services
32 by this chapter, shall be transferred to the Technology Services
33 Revolving Fund created by Section 11544, and shall be made
34 available for the support and maintenance of the Office of
35 Technology Services.

36 (5) All references in statutes, regulations, or contracts to the
37 former Stephen P. Teale Data Center Fund or the California Health
38 and Human Services Data Center Revolving Fund shall be
39 construed to refer to the Technology Services Revolving Fund
40 unless the context clearly requires otherwise.

(6) All books, documents, records, and property of the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, excluding the Systems Integration Division, shall be transferred to the Office of Technology Services.

(7) (A) All officers and employees of the former Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, are transferred to the Office of Technology Services.

(B) The status, position, and rights of any officer or employee of the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, shall not be affected by the transfer and consolidation of the functions of that officer or employee to the Office of Technology Services.

(b) (1) All duties and functions of the Telecommunications Division of the Department of General Services are transferred to the Department of Technology.

(2) Unless the context clearly requires otherwise, whenever the term “Telecommunications Division of the Department of General Services” or “California Technology Agency” appears in any statute, regulation, or contract, it shall be deemed to refer to the Department of Technology.

(3) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the Department of Technology, are transferred to the Department of Technology. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the Department of Technology.

(4) The property of any office, agency, or department related to functions transferred to the Department of Technology, are transferred to the Department of Technology. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(5) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the Department of

1 Technology shall be transferred to the Department of Technology
2 for the use and for the purpose for which the appropriation was
3 originally made or the funds were originally available. If there is
4 any doubt as to where those balances and funds are transferred,
5 the Department of Finance shall determine where the balances and
6 funds are transferred.

7 ~~SEC. 76.~~

8 *SEC. 77.* Section 11544 of the Government Code is amended
9 to read:

10 11544. (a) The Technology Services Revolving Fund, hereafter
11 known as the fund, is hereby created within the State Treasury.
12 The fund shall be administered by the Director of Technology to
13 receive all revenues from the sale of technology or technology
14 services provided for in this chapter, for other services rendered
15 by the Department of Technology, and all other moneys properly
16 credited to the Department of Technology from any other source,
17 to pay, upon appropriation by the Legislature, all costs arising
18 from this chapter and rendering of services to state and other public
19 agencies, including, but not limited to, employment and
20 compensation of necessary personnel and expenses, such as
21 operating and other expenses of the Department of Technology,
22 and costs associated with approved information technology
23 projects, and to establish reserves. At the discretion of the Director
24 of Technology, segregated, dedicated accounts within the fund
25 may be established. The amendments made to this section by the
26 act adding this sentence shall apply to all revenues earned on or
27 after July 1, 2010.

28 (b) The fund shall consist of all of the following:

29 (1) Moneys appropriated and made available by the Legislature
30 for the purposes of this chapter.

31 (2) Any other moneys that may be made available to the
32 Department of Technology from any other source, including the
33 return from investments of moneys by the Treasurer.

34 (c) The Department of Technology may collect payments from
35 public agencies for providing services to those agencies that the
36 agencies have requested from the Department of Technology. The
37 Department of Technology may require monthly payments by
38 client agencies for the services the agencies have requested.
39 Pursuant to Section 11255, the Controller shall transfer any
40 amounts so authorized by the Department of Technology,

1 consistent with the annual budget of each department, to the fund.
2 The Department of Technology shall notify each affected state
3 agency upon requesting the Controller to make the transfer.

4 (d) At the end of any fiscal year, if the balance remaining in the
5 fund at the end of that fiscal year exceeds 25 percent of the portion
6 of the Department of Technology's current fiscal year budget used
7 for support of data center and other client services, the excess
8 amount shall be used to reduce the billing rates for services
9 rendered during the following fiscal year.

10 ~~SEC. 77.~~

11 *SEC. 78.* Section 11546 of the Government Code is amended
12 to read:

13 11546. (a) The Department of Technology shall be responsible
14 for the approval and oversight of information technology projects,
15 which shall include, but are not limited to, all of the following:

16 (1) Establishing and maintaining a framework of policies,
17 procedures, and requirements for the initiation, approval,
18 implementation, management, oversight, and continuation of
19 information technology projects. Unless otherwise required by
20 law, a state department shall not procure oversight services of
21 information technology projects without the approval of the
22 Department of Technology.

23 (2) Evaluating information technology projects based on the
24 business case justification, resources requirements, proposed
25 technical solution, project management, oversight and risk
26 mitigation approach, and compliance with statewide strategies,
27 policies, and procedures. Projects shall continue to be funded
28 through the established Budget Act process.

29 (3) Consulting with agencies during initial project planning to
30 ensure that project proposals are based on well-defined
31 programmatic needs, clearly identify programmatic benefits, and
32 consider feasible alternatives to address the identified needs and
33 benefits consistent with statewide strategies, policies, and
34 procedures.

35 (4) Consulting with agencies prior to project initiation to review
36 the project governance and management framework to ensure that
37 it is best designed for success and will serve as a resource for
38 agencies throughout the project implementation.

1 (5) Requiring agencies to provide information on information
2 technology projects including, but not limited to, all of the
3 following:

4 (A) The degree to which the project is within approved scope,
5 cost, and schedule.

6 (B) Project issues, risks, and corresponding mitigation efforts.

7 (C) The current estimated schedule and costs for project
8 completion.

9 (6) Requiring agencies to perform remedial measures to achieve
10 compliance with approved project objectives. These remedial
11 measures may include, but are not limited to, any of the following:

12 (A) Independent assessments of project activities, the cost of
13 which shall be funded by the agency administering the project.

14 (B) Establishing remediation plans.

15 (C) Securing appropriate expertise, the cost of which shall be
16 funded by the agency administering the project.

17 (D) Requiring additional project reporting.

18 (E) Requiring approval to initiate any action identified in the
19 approved project schedule.

20 (7) Suspending, reinstating, or terminating information
21 technology projects. The Department of Technology shall notify
22 the Joint Legislative Budget Committee of any project suspension,
23 reinstatement, and termination within 30 days of that suspension,
24 reinstatement, or termination.

25 (8) Establishing restrictions or other controls to mitigate
26 nonperformance by agencies, including, but not limited to, any of
27 the following:

28 (A) The restriction of future project approvals pending
29 demonstration of successful correction of the identified
30 performance failure.

31 (B) The revocation or reduction of authority for state agencies
32 to initiate information technology projects or acquire information
33 technology or telecommunications goods or services.

34 (b) The Department of Technology shall have the authority to
35 delegate to another agency any authority granted under this section
36 based on its assessment of the agency's project management,
37 project oversight, and project performance.

38 ~~SEC. 78.~~

39 *SEC. 79.* Section 11549 of the Government Code is amended
40 to read:

1 11549. (a) There is in state government, in the Department of
2 Technology, the Office of Information Security. The purpose of
3 the Office of Information Security is to ensure the confidentiality,
4 integrity, and availability of state systems and applications, and
5 to promote and protect privacy as part of the development and
6 operations of state systems and applications to ensure the trust of
7 the residents of this state.

8 (b) The office shall be under the direction of a chief, who shall
9 be appointed by, and serve at the pleasure of, the Governor. The
10 chief shall report to the Director of Technology, and shall lead the
11 Office of Information Security in carrying out its mission.

12 (c) The duties of the Office of Information Security, under the
13 direction of the chief, shall be to provide direction for information
14 security and privacy to state government agencies, departments,
15 and offices, pursuant to Section 11549.3.

16 (d) (1) Unless the context clearly requires otherwise, whenever
17 the term “Office of Information Security and Privacy Protection”
18 appears in any statute, regulation, or contract, it shall be deemed
19 to refer to the Office of Information Security, and whenever the
20 term “executive director of the Office of Information Security and
21 Privacy Protection” appears in statute, regulation, or contract, it
22 shall be deemed to refer to the Chief of the Office of Information
23 Security.

24 (2) All employees serving in state civil service, other than
25 temporary employees, who are engaged in the performance of
26 functions transferred from the Office of Information Security and
27 Privacy Protection to the Office of Information Security, are
28 transferred to the Office of Information Security. The status,
29 positions, and rights of those persons shall not be affected by their
30 transfer and shall continue to be retained by them pursuant to the
31 State Civil Service Act (Part 2 (commencing with Section 18500)
32 of Division 5), except as to positions the duties of which are vested
33 in a position exempt from civil service. The personnel records of
34 all transferred employees shall be transferred to the Office of
35 Information Security.

36 (3) The property of any office, agency, or department related
37 to functions transferred to the Office of Information Security is
38 transferred to the Office of Information Security. If any doubt
39 arises as to where that property is transferred, the Department of
40 General Services shall determine where the property is transferred.

(4) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the Office of Information Security shall be transferred to the Office of Information Security for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

~~SEC. 79.~~

SEC. 80. Section 11549.1 of the Government Code is amended to read:

11549.1. As used in this article, the following terms have the following meanings:

(a) “Chief” means the Chief of the Office of Information Security.

(b) “Office” means the Office of Information Security.

(c) “Program” means an information security program established pursuant to Section 11549.3.

~~SEC. 80.~~

SEC. 81. Section 11549.3 of the Government Code is amended to read:

11549.3. (a) The Chief of the Office of Information Security shall establish an information security program. The program responsibilities include, but are not limited to, all of the following:

(1) The creation, updating, and publishing of information security and privacy policies, standards, and procedures for state agencies in the State Administrative Manual.

(2) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies to effectively manage security and risk for all of the following:

(A) Information technology, which includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(B) Information that is identified as mission critical, confidential, sensitive, or personal, as defined and published by the office.

1 (3) The creation, issuance, and maintenance of policies,
2 standards, and procedures directing state agencies for the collection,
3 tracking, and reporting of information regarding security and
4 privacy incidents.

5 (4) The creation, issuance, and maintenance of policies,
6 standards, and procedures directing state agencies in the
7 development, maintenance, testing, and filing of each agency's
8 disaster recovery plan.

9 (5) Coordination of the activities of agency information security
10 officers, for purposes of integrating statewide security initiatives
11 and ensuring compliance with information security and privacy
12 policies and standards.

13 (6) Promotion and enhancement of the state agencies' risk
14 management and privacy programs through education, awareness,
15 collaboration, and consultation.

16 (7) Representing the state before the federal government, other
17 state agencies, local government entities, and private industry on
18 issues that have statewide impact on information security and
19 privacy.

20 (b) An information security officer appointed pursuant to Section
21 11546.1 shall implement the policies and procedures issued by the
22 Office of Information Security, including, but not limited to,
23 performing all of the following duties:

24 (1) Comply with the information security and privacy policies,
25 standards, and procedures issued pursuant to this chapter by the
26 Office of Information Security.

27 (2) Comply with filing requirements and incident notification
28 by providing timely information and reports as required by policy
29 or directives of the office.

30 (c) The office may conduct, or require to be conducted,
31 independent security assessments of any state agency, department,
32 or office, the cost of which shall be funded by the state agency,
33 department, or office being assessed.

34 (d) The office may require an audit of information security to
35 ensure program compliance, the cost of which shall be funded by
36 the state agency, department, or office being audited.

37 (e) The office shall report to the Department of Technology any
38 state agency found to be noncompliant with information security
39 program requirements.

~~SEC. 81.~~

SEC. 82. Section 12802.8 of the Government Code is amended to read:

12802.8. The Governor may, with respect to the Transportation Agency, appoint a Deputy Secretary of Housing Coordination, who shall serve as the secretary's primary advisor on housing matters, including, but not limited to, sustainable growth policy matters, and other strategies to achieve the state's greenhouse gas emission reduction objectives as it pertains to those housing matters.

The Deputy Secretary of Housing Coordination shall hold office at the pleasure of the Governor and shall receive a salary as shall be fixed by the Governor with the approval of the Department of Finance.

~~SEC. 82.~~

SEC. 83. Section 13995.20 of the Government Code is amended to read:

13995.20. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Appointed commissioner" means a commissioner appointed by the Governor pursuant to paragraph (2) of subdivision (b) of Section 13995.40.

(b) "Assessed business" means a person required to pay an assessment pursuant to this chapter, and until the first assessment is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation's board of directors is appointed by a public official or public entity, or serves on the corporation's board of directors by virtue of being elected to public office, or both.

(c) "Commission" means the California Travel and Tourism Commission.

(d) "Director" means the Director of the Governor's Office of Business and Economic Development.

(e) "Elected commissioner" means a commissioner elected pursuant to subdivision (d) of Section 13995.40.

(f) "Industry category" means the following classifications within the tourism industry:

- (1) Accommodations.
- (2) Restaurants and retail.

1 (3) Attractions and recreation.

2 (4) Transportation and travel services, other than passenger car
3 rental.

4 (5) Passenger car rental.

5 (g) “Industry segment” means a portion of an industry category.
6 For example, motor home rentals are an industry segment of the
7 transportation and travel services industry category.

8 (h) “Maximum assessment” means a dollar amount, adopted by
9 the commission, over which an assessed business shall not be
10 required to pay. The commission may adopt differing amounts of
11 maximum assessment for each industry category or industry
12 segment.

13 (i) “Office” means the Office of Tourism, also popularly referred
14 to as the Division of Tourism, within the Governor’s Office of
15 Business and Economic Development.

16 (j) “Person” means an individual, public entity, firm,
17 corporation, association, or any other business unit, whether
18 operating on a for-profit or nonprofit basis.

19 (k) “Referendum” means any vote by mailed ballot of measures
20 recommended by the commission and approved by the director
21 pursuant to Section 13995.60, except for the initial referendum,
22 which shall consist of measures contained in the selection
23 committee report, discussed in Section 13995.30.

24 (l) “Selection committee” means the Tourism Selection
25 Committee described in Article 3 (commencing with Section
26 13995.30).

27 ~~SEC. 83.~~

28 *SEC. 84.* The heading of Article 5 (commencing with Section
29 13995.50) of Chapter 1 of Part 4.7 of Division 3 of Title 2 of the
30 Government Code is amended to read:

31
32 Article 5. Director

33
34 ~~SEC. 84.~~

35 *SEC. 85.* Section 13995.60 of the Government Code is amended
36 to read:

37 13995.60. (a) As used in this article and Article 7 (commencing
38 with Section 13995.65), “assessment level” means the estimated
39 gross dollar amount received by assessment from all assessed
40 businesses on an annual basis, and “assessment formula” means

1 the allocation method used within each industry segment (for
2 example, percentage of gross revenue or percentage of transaction
3 charges).

4 (b) Commencing on January 1, 2003, a referendum shall be
5 called every two years, and the commission, by adopted resolution,
6 shall determine the slate of individuals who will run for
7 commissioner. The resolution shall also cover, but not be limited
8 to, the proposed assessment level for each industry category, based
9 upon specified assessment formulae, together with necessary
10 information to enable each assessed business to determine what
11 its individual assessment would be. Commencing with the
12 referendum held in 2007 and every six years thereafter, the
13 resolution shall also cover the termination or continuation of the
14 commission. The resolution may also include an amended industry
15 segment allocation formula and the percentage allocation of
16 assessments between industry categories and segments. The
17 commission may specify in the resolution that a special, lower
18 assessment rate that was set pursuant to subdivision (c) of Section
19 13995.30 for a particular business will no longer apply due to
20 changes in the unique circumstance that originally justified the
21 lower rate. The resolution may include up to three possible
22 assessment levels for each industry category, from which the
23 assessed businesses will select one assessment level for each
24 industry category by plurality weighted vote.

25 (c) The commission shall deliver to the director the resolution
26 described in subdivision (b). The director shall call a referendum
27 containing the information required by subdivision (b) plus any
28 additional matters complying with the procedures of subdivision
29 (b) of Section 13995.62.

30 (d) When the director calls a referendum, all assessed businesses
31 shall be sent a ballot for the referendum. Every ballot that the
32 secretary receives by the ballot deadline shall be counted, utilizing
33 the weighted formula adopted initially by the selection committee,
34 and subsequently amended by referendum.

35 (e) If the commission's assessment level is significantly different
36 from what was projected when the existing assessment formula
37 was last approved by referendum, a majority of members, by
38 weighted votes of an industry category, may petition for a
39 referendum to change the assessment formula applicable to that
40 industry category.

1 (f) If the referendum includes more than one possible assessment
2 rate for each industry category, the rate with the plurality of
3 weighted votes within a category shall be adopted.

4 (g) Notwithstanding any other provision of this section, if the
5 commission delivers to the director a resolution pertaining to any
6 matter described in subdivision (b), the director shall call a
7 referendum at a time or times other than as specified in this section.
8 Each referendum shall contain only those matters contained in the
9 resolution.

10 (h) Notwithstanding any other provision of this section, the
11 director shall identify, to the extent reasonably feasible, those
12 businesses that would become newly assessed due to a change in
13 category, segment, threshold, or exemption status sought via
14 referendum, and provide those businesses the opportunity to vote
15 in that referendum.

16 ~~SEC. 85.~~

17 *SEC. 86.* Section 13995.64.5 of the Government Code is
18 amended to read:

19 13995.64.5. Notwithstanding subdivision (a) of Section
20 13995.64, if an assessed business within the passenger car rental
21 category pays an assessment greater than the maximum assessment,
22 determined by the commission for other industry categories, the
23 weighted percentage assigned to that assessed business shall be
24 the same as though its assessment were equal to the highest
25 maximum assessment.

26 ~~SEC. 86.~~

27 *SEC. 87.* Section 13995.65.5 of the Government Code is
28 amended to read:

29 13995.65.5. Notwithstanding Section 13995.65 or any other
30 provision of this chapter, for purposes of calculating the assessment
31 for a business within the passenger car rental category, the
32 assessment shall be collected only on each rental transaction that
33 commences at either an airport or at a hotel or other overnight
34 lodging with respect to which a city, city and county, or county is
35 authorized to levy a tax as described in Section 7280 of the
36 Revenue and Taxation Code. A transaction commencing at an
37 airport or hotel or other overnight lodging subject to a transient
38 occupancy tax as described in Section 7280 of the Revenue and
39 Taxation Code, including those that commence at a location that
40 might otherwise by regulation be exempt from assessment, shall

1 be subject to the assessment. The assessment shall always be
2 expressed as a fixed percentage of the amount of the rental
3 transaction.

4 ~~SEC. 87:~~

5 *SEC. 88.* Section 13995.92 of the Government Code is amended
6 to read:

7 13995.92. The California Travel and Tourism Commission
8 shall submit a referendum to the passenger rental car industry as
9 soon as possible, but not later than March 31, 2007. The
10 referendum shall propose an assessment level upon the passenger
11 rental car industry, as an industry category, under this chapter. The
12 proposed assessment rate shall be set at a level determined by the
13 commission that will generate funding that will be sufficient, when
14 aggregated together with other funding for the commission, minus
15 amounts reverted to the general fund pursuant to Item 0520-495
16 of Section 2 of the Budget Act of 2006, for a spending plan for
17 the 2006–07 fiscal year of twenty-five million dollars
18 (\$25,000,000), and for the 2007–08 fiscal year of fifty million
19 dollars (\$50,000,000).

20 ~~SEC. 88:~~

21 *SEC. 89.* Section 13997.7 of the Government Code is amended
22 to read:

23 13997.7. (a) Notwithstanding any other provision of law,
24 effective January 1, 2008, the Economic Adjustment Assistance
25 Grant funded through the United States Economic Development
26 Administration under Title IX of the Public Works and Economic
27 Development Act of 1965 (Grant No. 07–19–02709 and
28 07–19–2709.1) shall be administered by the Director of the
29 Governor’s Office of Business and Economic Development, and,
30 for the purpose of state administration of this grant, the Director
31 of the Governor’s Office of Business and Economic Development
32 shall be deemed to be the successor to the former Secretary of
33 Technology, Trade and Commerce. The Director of the Governor’s
34 Office of Business and Economic Development may assign and
35 contract administration of the grant to a public agency created
36 pursuant to Chapter 5 (commencing with Section 6500) of Division
37 7 of Title 1.

38 (b) On January 1, 2008, all federal moneys held in the Sudden
39 and Severe Economic Dislocation Grant Account within the Special
40 Deposit Fund are hereby transferred to the Small Business

1 Expansion Fund created pursuant to Section 14030 of the
2 Corporations Code for expenditure by the Governor's Office of
3 Business and Economic Development pursuant to Article 9
4 (commencing with Section 14070) of the Corporations Code for
5 purposes of the Sudden and Severe Economic Dislocation Grant
6 program, or other purposes permitted by the cognizant federal
7 agency.

8 (c) All loan repayments received on or after January 1, 2008,
9 for the Sudden and Severe Economic Dislocation Grant program
10 loans issued pursuant to former Section 15327 (repealed by Section
11 1.8 of Chapter 229 of the Statutes of 2003 (AB 1757)) and this
12 section, shall be deposited into the Small Business Expansion Fund
13 and shall be available to the Governor's Office of Business and
14 Economic Development for expenditure pursuant to the provisions
15 of Article 9 (commencing with Section 14070) of the Corporations
16 Code for the Sudden and Severe Economic Dislocation Grant
17 program, or other purposes permitted by the cognizant federal
18 agency.

19 ~~SEC. 89.~~

20 *SEC. 90.* Section 14030 of the Government Code is amended
21 to read:

22 14030. The powers and duties of the department include, but
23 are not limited to, all of the following activities:

24 (a) Supporting the commission in coordinating and developing,
25 in cooperation with local and regional entities, comprehensive
26 balanced transportation planning and policy for the movement of
27 people and goods within the state.

28 (b) Coordinating and assisting, upon request of, the various
29 public and private transportation entities in strengthening their
30 development and operation of balanced integrated mass
31 transportation, highway, aviation, maritime, railroad, and other
32 transportation facilities and services in support of statewide and
33 regional goals.

34 (c) Developing, in cooperation with local and regional
35 transportation entities, the full potential of all resources and
36 opportunities that are now, and may become, available to the state
37 and to regional and local agencies for meeting California's
38 transportation needs, as provided by statutes and, in particular,
39 maximizing the amount of federal funds that may be available to

1 the state and increasing the efficiency by which those funds are
2 utilized.

3 (d) Planning, designing, constructing, operating, and maintaining
4 those transportation systems that the Legislature has made, or may
5 make, the responsibility of the department; provided that the
6 department is not authorized to assume the functions of project
7 planning, designing, constructing, operating, or maintaining
8 maritime or aviation facilities without express prior approval of
9 the Legislature with the exception of those aviation functions that
10 have been designated for the department in the Public Utilities
11 Code.

12 (e) Coordinating and developing transportation research projects
13 of statewide interest.

14 (f) Exercising other functions, powers, and duties as are or may
15 be provided for by law.

16 (g) With the Department of Housing and Community
17 Development, investigating and reporting to the Secretary of
18 Transportation and the Secretary of Business, Consumer Services
19 and Housing upon the consistency between state, local, and federal
20 housing plans and programs and state, local, and federal
21 transportation plans and programs.

22 *SEC. 91. Section 14534.1 of the Government Code is amended*
23 *to read:*

24 14534.1. Notwithstanding Section 12850.6 or subdivision (b)
25 of Section 12800, as added to this code by the Governor's
26 Reorganization Plan No. 2 of 2012 during the 2011–12 Regular
27 Session, the commission shall retain independent authority to
28 perform those duties and functions prescribed to it under ~~this part~~
29 *any provision of law.*

30 ~~SEC. 90.~~

31 *SEC. 92. Section 14998.3 of the Government Code is amended*
32 *to read:*

33 14998.3. (a) The commission shall submit a list of
34 recommended candidates for the position of Director of the Film
35 Commission to the Governor for consideration. The Governor
36 shall appoint the director.

37 (b) The Director of the Film Commission shall receive a salary
38 to be determined by the Department of Human Resources.

39 (c) The Director of the Governor's Office of Business and
40 Economic Development, or his or her designee, shall act as the

1 director during the absence from the state or other temporary
2 absence, disability, or unavailability of the director, or during a
3 vacancy in that position.

4 ~~SEC. 91.~~

5 *SEC. 93.* Section 14998.4 of the Government Code is amended
6 to read:

7 14998.4. (a) The commission shall meet at least quarterly and
8 shall select a chairperson and a vice chairperson from among its
9 members. The vice chairperson shall act as chairperson in the
10 chairperson's absence.

11 (b) Each commission member shall serve without compensation
12 but shall be reimbursed for traveling outside the county in which
13 he or she resides to attend meetings.

14 (c) The commission shall work to encourage motion picture and
15 television filming in California and to that end, shall exercise all
16 of the powers provided in this chapter.

17 (d) The commission shall make recommendations to the
18 Legislature, the Governor, the Governor's Office of Business and
19 Economic Development, and other state agencies on legislative or
20 administrative actions that may be necessary or helpful to maintain
21 and improve the position of the state's motion picture industry in
22 the national and world markets.

23 (e) In addition, subject to the provision of funding appropriated
24 for these purposes, the commission shall do all of the following:

25 (1) Adopt guidelines for a standardized permit to be used by
26 state agencies and the director.

27 (2) Approve or modify the marketing and promotion plan
28 developed by the director pursuant to subdivision (d) of Section
29 14998.9 to promote filmmaking in the state.

30 (3) Conduct workshops and trade shows.

31 (4) Provide expertise in promotional activities.

32 (5) Hold hearings.

33 (6) Adopt its own operational rules and procedures.

34 (7) Counsel the Legislature and the Governor on issues relating
35 to the motion picture industry.

36 ~~SEC. 92.~~

37 *SEC. 94.* Section 14998.6 of the Government Code is amended
38 to read:

39 14998.6. The director of the commission shall provide staff
40 support to the California Film Commission. When needed, the

1 Director of the Governor's Office of Business and Economic
2 Development may assign additional staff on a temporary or
3 permanent basis.

4 ~~SEC. 93.~~

5 *SEC. 95.* Section 14998.7 of the Government Code is amended
6 to read:

7 14998.7. Any funds appropriated to, or for use by, the
8 California Film Commission for purposes of this chapter, shall be
9 under the control of the Director of the Governor's Office of
10 Business and Economic Development or his or her designee.

11 ~~SEC. 94.~~

12 *SEC. 96.* Section 15251 of the Government Code is amended
13 to read:

14 15251. Unless the context requires otherwise, as used in this
15 part, the following terms shall have the following meanings:

16 (a) "Department" means the Department of Technology.

17 (b) "Office" means the Public Safety Communications Office
18 established by this part.

19 ~~SEC. 95.~~

20 *SEC. 97.* Section 15277 of the Government Code is amended
21 to read:

22 15277. The Public Safety Communications Office is established
23 within the department. The duties of the office shall include, but
24 not be limited to, all of the following:

25 (a) Assessing the overall long-range public safety
26 communications needs and requirements of the state considering
27 emergency operations, performance, cost, state-of-the-art
28 technology, multiuser availability, security, reliability, and other
29 factors deemed to be important to state needs and requirements.

30 (b) Developing strategic and tactical policies and plans for public
31 safety communications with consideration for the systems and
32 requirements of the state and all public agencies in this state, and
33 preparing an annual strategic communications plan that includes
34 the feasibility of interfaces with federal and other state
35 telecommunications networks and services.

36 (c) Recommending industry standards for public safety
37 communications systems to ensure multiuser availability and
38 compatibility.

39 (d) Providing advice and assistance in the selection of
40 communications equipment to ensure that the public safety

1 communications needs of state agencies are met and that
2 procurements are compatible throughout state agencies and are
3 consistent with the state's strategic and tactical plans for public
4 safety communications.

5 (e) Providing management oversight of statewide public safety
6 communications systems developments.

7 (f) Providing for coordination of, and comment on, plans,
8 policies, and operational requirements from departments that utilize
9 public safety communications in support of their principal function,
10 such as the California Emergency Management Agency, National
11 Guard, health and safety agencies, and others with primary public
12 safety communications programs.

13 (g) Monitoring and participating on behalf of the state in the
14 proceedings of federal and state regulatory agencies and in
15 congressional and state legislative deliberations that have an impact
16 on state government public safety communications activities.

17 (h) Developing plans regarding teleconferencing as an
18 alternative to state travel during emergency situations.

19 (i) Ensuring that all radio transmitting devices owned or operated
20 by state agencies and departments are licensed, installed, and
21 maintained in accordance with the requirements of federal law. A
22 request for a federally required license for a state-owned radio
23 transmitting device shall be sought only in the name of the "State
24 of California."

25 (j) Acquiring, installing, equipping, maintaining, and operating
26 new or existing public safety communications systems and facilities
27 for public safety agencies. To accomplish that purpose, the office
28 is authorized to enter into contracts, obtain licenses, acquire
29 property, install necessary equipment and facilities, and do other
30 necessary acts to provide adequate and efficient public safety
31 communications systems. Any systems established shall be
32 available to all public agencies in the state on terms that may be
33 agreed upon by the public agency and the office.

34 (k) Acquiring, installing, equipping, maintaining, and operating
35 all new or replacement microwave communications systems
36 operated by the state, except microwave equipment used
37 exclusively for traffic signal and signing control, traffic metering,
38 and roadway surveillance systems. To accomplish that purpose,
39 the office is authorized to enter into contracts, obtain licenses,
40 acquire property, install necessary equipment and facilities, and

1 do other necessary acts to provide adequate and efficient
2 microwave communications systems. Any system established shall
3 be available to all public safety agencies in the state on terms that
4 may be agreed upon by the public agency and the office.

5 (l) This chapter shall not apply to Department of Justice
6 communications operated pursuant to Chapter 2.5 (commencing
7 with Section 15150) of Part 6.

8 ~~SEC. 96.~~

9 *SEC. 98.* Section 53108.5 of the Government Code is amended
10 to read:

11 53108.5. "Office," as used in this article, means the Public
12 Safety Communications Office within the Department of
13 Technology.

14 ~~SEC. 97.~~

15 *SEC. 99.* Section 53113 of the Government Code is amended
16 to read:

17 53113. The Legislature finds that, because of overlapping
18 jurisdiction of public agencies, public safety agencies, and
19 telephone service areas, a general overview or plan should be
20 developed prior to the establishment of any system. In order to
21 ensure that proper preparation and implementation of those systems
22 is accomplished by all public agencies by December 31, 1985, the
23 office, with the advice and assistance of the Attorney General,
24 shall secure compliance by public agencies as provided in this
25 article.

26 ~~SEC. 98.~~

27 *SEC. 100.* Section 53114 of the Government Code is amended
28 to read:

29 53114. The office, with the advice and assistance of the
30 Attorney General, shall coordinate the implementation of systems
31 established pursuant to the provisions of this article. The office,
32 with the advice and assistance of the Attorney General, shall assist
33 local public agencies and local public safety agencies in obtaining
34 financial help to establish emergency telephone service, and shall
35 aid agencies in the formulation of concepts, methods, and
36 procedures that will improve the operation of systems required by
37 this article and that will increase cooperation between public safety
38 agencies.

1 ~~SEC. 99.~~

2 *SEC. 101.* Section 53114.1 of the Government Code is amended
3 to read:

4 53114.1. To accomplish the responsibilities specified in this
5 article, the office is directed to consult at regular intervals with the
6 State Fire Marshal, the State Department of Public Health, the
7 Office of Traffic Safety, the Office of Emergency Services, a local
8 representative from a city, a local representative from a county,
9 the public utilities in this state providing telephone service, the
10 Association of Public-Safety Communications Officials, the
11 Emergency Medical Services Authority, the Department of the
12 California Highway Patrol, and the Department of Forestry and
13 Fire Protection. These agencies shall provide all necessary
14 assistance and consultation to the office to enable it to perform its
15 duties specified in this article.

16 ~~SEC. 100.~~

17 *SEC. 102.* Section 53114.2 of the Government Code is amended
18 to read:

19 53114.2. On or before December 31, 1976, and each
20 even-numbered year thereafter, after consultation with all agencies
21 specified in Section 53114.1, the office shall review and update
22 technical and operational standards for public agency systems.

23 ~~SEC. 101.~~

24 *SEC. 103.* Section 53115 of the Government Code is amended
25 to read:

26 53115. The office shall monitor all emergency telephone
27 systems to ensure they comply with minimal operational and
28 technical standards as established by the office. If any system does
29 not comply the office shall notify in writing the public agency or
30 agencies operating the system of its deficiencies. The public agency
31 shall bring the system into compliance with the operational and
32 technical standards within 60 days of notice by the office. Failure
33 to comply within this time shall subject the public agency to action
34 by the Attorney General pursuant to Section 53116.

35 ~~SEC. 102.~~

36 *SEC. 104.* Section 53115.1 of the Government Code is amended
37 to read:

38 53115.1. (a) There is in state government the State 911
39 Advisory Board.

1 (b) The advisory board shall be comprised of the following
2 members appointed by the Governor who shall serve at the pleasure
3 of the Governor.

4 (1) The Chief of the California 911 Emergency Communications
5 Office shall serve as the nonvoting chair of the board.

6 (2) One representative from the Department of the California
7 Highway Patrol.

8 (3) Two representatives on the recommendation of the California
9 Police Chiefs Association.

10 (4) Two representatives on the recommendation of the California
11 State Sheriffs' Association.

12 (5) Two representatives on the recommendation of the California
13 Fire Chiefs Association.

14 (6) Two representatives on the recommendation of the CalNENA
15 Executive Board.

16 (7) One representative on the joint recommendation of the
17 executive boards of the state chapters of the Association of
18 Public-Safety Communications Officials-International, Inc.

19 (c) Recommending authorities shall give great weight and
20 consideration to the knowledge, training, and expertise of the
21 appointee with respect to their experience within the California
22 911 system. Board members should have at least two years of
23 experience as a Public Safety Answering Point (PSAP) manager
24 or county coordinator, except where a specific person is designated
25 as a member.

26 (d) Members of the advisory board shall serve at the pleasure
27 of the Governor, but may not serve more than two consecutive
28 two-year terms, except as follows:

29 (1) The presiding Chief of the California 911 Emergency
30 Communications Office shall serve for the duration of his or her
31 tenure.

32 (2) Four of the members shall serve an initial term of three years.

33 (e) Advisory board members shall not receive compensation
34 for their service on the board, but may be reimbursed for travel
35 and per diem for time spent in attending meetings of the board.

36 (f) The advisory board shall meet quarterly in public sessions
37 in accordance with the Bagley-Keene Open Meeting Act (Article
38 9 (commencing with Section 11120) of Chapter 2 of Part 1 of
39 Division 3 of Title 2). The office shall provide administrative
40 support to the State 911 Advisory Board. The State 911 Advisory

1 Board, at its first meeting, shall adopt bylaws and operating
2 procedures consistent with this article and establish committees
3 as necessary.

4 (g) Notwithstanding any other provision of law, any member
5 of the advisory board may designate a person to act as that member
6 in his or her place and stead for all purposes, as though the member
7 were personally present.

8 ~~SEC. 103.~~

9 *SEC. 105.* Section 53115.2 of the Government Code is amended
10 to read:

11 53115.2. (a) The State 911 Advisory Board shall advise the
12 office on all of the following subjects:

13 (1) Policies, practices, and procedures for the California 911
14 Emergency Communications Office.

15 (2) Technical and operational standards for the California 911
16 system consistent with the National Emergency Number
17 Association (NENA) standards.

18 (3) Training standards for county coordinators and Public Safety
19 Answering Point (PSAP) managers.

20 (4) Budget, funding, and reimbursement decisions related to
21 the State Emergency Number Account.

22 (5) Proposed projects and studies conducted or funded by the
23 State Emergency Number Account.

24 (6) Expediting the rollout of Enhanced 911 Phase II technology.

25 (b) Upon request of a local public agency, the board shall
26 conduct a hearing on any conflict between a local public agency
27 and the office regarding a final plan that has not been approved
28 by the office pursuant to Section 53114. The board shall meet
29 within 30 days following the request, and shall make a
30 recommendation to resolve the conflict to the office within 90 days
31 following the initial hearing by the board pursuant to the request.

32 ~~SEC. 104.~~

33 *SEC. 106.* Section 53115.3 of the Government Code is amended
34 to read:

35 53115.3. When proposed implementation of the 911 system
36 by a single public agency within its jurisdiction may adversely
37 affect the implementation of the system by a neighboring public
38 agency or agencies, such neighboring public agency may request
39 that the office evaluate the impact of implementation by the
40 proposing public agency and evaluate and weigh that impact in its

1 decision to approve or disapprove the proposing public agency's
2 final plan pursuant to Section 53115. In order to effectuate this
3 process, each city shall file a notice of filing of its final plan with
4 each adjacent city and with the county in which the proposing
5 public agency is located at the same time such final plan is filed
6 with the office and each county shall file a notice of filing of its
7 final plan with each city within the county and each adjacent county
8 at the time the final plan is filed with the office. Any public agency
9 wishing to request review pursuant to this section shall file its
10 request with the office within 30 days of filing of the final plan
11 for which review is sought.

12 ~~SEC. 105.~~

13 *SEC. 107.* Section 53116 of the Government Code is amended
14 to read:

15 53116. The Attorney General may, on behalf of the office or
16 on his or her own initiative, commence judicial proceedings to
17 enforce compliance by any public agency or public utility providing
18 telephone service with the provisions of this article.

19 ~~SEC. 106.~~

20 *SEC. 108.* Section 53119 of the Government Code is amended
21 to read:

22 53119. Any telephone corporation serving rural telephone areas
23 that cannot currently provide enhanced "911" emergency telephone
24 service capable of selective routing, automatic number
25 identification, or automatic location identification shall present to
26 the office a comprehensive plan detailing a schedule by which
27 those facilities will be converted to be compatible with the
28 enhanced emergency telephone system.

29 ~~SEC. 107.~~

30 *SEC. 109.* Section 53120 of the Government Code is amended
31 to read:

32 53120. The office shall not delay implementation of the
33 enhanced "911" emergency telephone system in those portions of
34 cities or counties, or both, served by a local telephone corporation
35 that has equipment compatible with the enhanced "911" emergency
36 telephone system.

37 ~~SEC. 108.~~

38 *SEC. 110.* Section 53126.5 of the Government Code is amended
39 to read:

1 53126.5. For purposes of this article, the following definitions
2 apply:

3 (a) “Local public agency” means a city, county, city and county,
4 and joint powers authority that provides a public safety answering
5 point (PSAP).

6 (b) “Nonemergency telephone system” means a system
7 structured to provide access to only public safety agencies such
8 as police and fire, or a system structured to provide access to public
9 safety agencies and to all other services provided by a local public
10 agency such as street maintenance and animal control.

11 (c) “Public Safety Communications Office” means the Public
12 Safety Communications Office within the Department of
13 Technology.

14 ~~SEC. 109.~~

15 *SEC. 111.* Section 53661 of the Government Code is amended
16 to read:

17 53661. (a) The Commissioner of Business Oversight shall act
18 as Administrator of Local Agency Security and shall be responsible
19 for the administration of Sections 53638, 53651, 53651.2, 53651.4,
20 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659,
21 53660, 53661, 53663, 53664, 53665, 53666, and 53667.

22 (b) The administrator shall have the powers necessary or
23 convenient to administer and enforce the sections specified in
24 subdivision (a).

25 (c) (1) The administrator shall issue regulations consistent with
26 law as the administrator may deem necessary or advisable in
27 executing the powers, duties, and responsibilities assigned by this
28 article. The regulations may include regulations prescribing
29 standards for the valuation, marketability, and liquidity of the
30 eligible securities of the class described in subdivision (m) of
31 Section 53651, regulations prescribing procedures and
32 documentation for adding, withdrawing, substituting, and holding
33 pooled securities, and regulations prescribing the form, content,
34 and execution of any application, report, or other document called
35 for in any of the sections specified in subdivision (a) or in any
36 regulation or order issued under any of those sections.

37 (2) The administrator, for good cause, may waive any provision
38 of any regulation adopted pursuant to paragraph (1) or any order
39 issued under this article, where the provision is not necessary in
40 the public interest.

1 (d) The administrator may enter into any contracts or agreements
2 as may be necessary, including joint underwriting agreements, to
3 sell or liquidate eligible securities securing local agency deposits
4 in the event of the failure of the depository or if the depository
5 fails to pay all or part of the deposits of a local agency.

6 (e) The administrator shall require from every depository a
7 report certified by the agent of depository listing all securities, and
8 the market value thereof, which are securing local agency deposits
9 together with the total deposits then secured by the pool, to
10 determine whether there is compliance with Section 53652. These
11 reports may be required whenever deemed necessary by the
12 administrator, but shall be required at least four times each year
13 at the times designated by the Comptroller of the Currency for
14 reports from national banking associations. These reports shall be
15 filed in the office of the administrator by the depository within 20
16 business days of the date the administrator calls for the report.

17 (f) The administrator may have access to reports of examination
18 made by the Comptroller of the Currency insofar as the reports
19 relate to national banking association trust department activities
20 which are subject to this article.

21 (g) (1) The administrator shall require the immediate
22 substitution of an eligible security, where the substitution is
23 necessary for compliance with Section 53652, if (i) the
24 administrator determines that a security listed in Section 53651 is
25 not qualified to secure public deposits, or (ii) a treasurer, who has
26 deposits secured by the securities pool, provides written notice to
27 the administrator and the administrator confirms that a security in
28 the pool is not qualified to secure public deposits.

29 (2) The failure of a depository to substitute securities, where
30 the administrator has required the substitution, shall be reported
31 by the administrator promptly to those treasurers having money
32 on deposit in that depository and, in addition, shall be reported as
33 follows:

34 (A) When that depository is a national bank, to the Comptroller
35 of the Currency of the United States.

36 (B) When that depository is a state bank, to the Commissioner
37 of Business Oversight.

38 (C) When that depository is a federal association, to the Office
39 of the Comptroller of the Currency.

1 (D) When that depository is a savings association, to the
2 Commissioner of Business Oversight.

3 (E) When that depository is a federal credit union, to the
4 National Credit Union Administration.

5 (F) When that depository is a state credit union or a federally
6 insured industrial loan company, to the Commissioner of Business
7 Oversight.

8 (h) The administrator may require from each treasurer a
9 registration report and at appropriate times a report stating the
10 amount and location of each deposit together with other
11 information deemed necessary by the administrator for effective
12 operation of this article. The facts recited in any report from a
13 treasurer to the administrator are conclusively presumed to be true
14 for the single purpose of the administrator fulfilling responsibilities
15 assigned to him or her by this article and for no other purpose.

16 (i) (1) If, after notice and opportunity for hearing, the
17 administrator finds that any depository or agent of depository has
18 violated or is violating, or that there is reasonable cause to believe
19 that any depository or agent of depository is about to violate, any
20 of the sections specified in subdivision (a) or any regulation or
21 order issued under any of those sections, the administrator may
22 order the depository or agent of depository to cease and desist from
23 the violation or may by order suspend or revoke the authorization
24 of the agent of depository. The order may require the depository
25 or agent of depository to take affirmative action to correct any
26 condition resulting from the violation.

27 (2) (A) If the administrator makes any of the findings set forth
28 in paragraph (1) with respect to any depository or agent of
29 depository and, in addition, finds that the violation or the
30 continuation of the violation is likely to seriously prejudice the
31 interests of treasurers, the administrator may order the depository
32 or agent of depository to cease and desist from the violation or
33 may suspend or revoke the authorization of the agent of depository.
34 The order may require the depository or agent of depository to
35 take affirmative action to correct any condition resulting from the
36 violation.

37 (B) Within five business days after an order is issued under
38 subparagraph (A), the depository or agent of depository may file
39 with the administrator an application for a hearing on the order.
40 The administrator shall schedule a hearing at least 30 days, but

1 not more than 40 days, after receipt of an application for a hearing
2 or within a shorter or longer period of time agreed to by a
3 depository or an agent of depository. If the administrator fails to
4 schedule the hearing within the specified or agreed to time period,
5 the order shall be deemed rescinded. Within 30 days after the
6 hearing, the administrator shall affirm, modify, or rescind the order;
7 otherwise, the order shall be deemed rescinded. The right of a
8 depository or agent of depository to which an order is issued under
9 subparagraph (A) to petition for judicial review of the order shall
10 not be affected by the failure of the depository or agent of
11 depository to apply to the administrator for a hearing on the order
12 pursuant to this subparagraph.

13 (3) Whenever the administrator issues a cease and desist order
14 under paragraph (1) or (2), the administrator may in the order
15 restrict the right of the depository to withdraw securities from a
16 security pool; and, in that event, both the depository to which the
17 order is directed and the agent of depository which holds the
18 security pool shall comply with the restriction.

19 (4) In case the administrator issues an order under paragraph
20 (1) or (2) suspending or revoking the authorization of an agent of
21 depository, the administrator may order the agent of depository at
22 its own expense to transfer all pooled securities held by it to such
23 agent of depository as the administrator may designate in the order.
24 The agent of depository designated in the order shall accept and
25 hold the pooled securities in accordance with this article and
26 regulations and orders issued under this article.

27 (j) In the discretion of the administrator, whenever it appears
28 to the administrator that any person has violated or is violating, or
29 that there is reasonable cause to believe that any person is about
30 to violate, any of the sections specified in subdivision (a) or any
31 regulation or order issued thereunder, the administrator may bring
32 an action in the name of the people of the State of California in
33 the superior court to enjoin the violation or to enforce compliance
34 with those sections or any regulation or order issued thereunder.
35 Upon a proper showing a permanent or preliminary injunction,
36 restraining order, or writ of mandate shall be granted, and the court
37 may not require the administrator to post a bond.

38 (k) In addition to other remedies, the administrator shall have
39 the power and authority to impose the following sanctions for
40 noncompliance with the sections specified in subdivision (a) after

1 a hearing if requested by the party deemed in noncompliance. Any
2 fine assessed pursuant to this subdivision shall be paid within 30
3 days after receipt of the assessment.

4 (1) Assess against and collect from a depository a fine not to
5 exceed two hundred fifty dollars (\$250) for each day the depository
6 fails to maintain with the agent of depository securities as required
7 by Section 53652.

8 (2) Assess against and collect from a depository a fine not to
9 exceed one hundred dollars (\$100) for each day beyond the time
10 period specified in subdivision (b) of Section 53663 the depository
11 negligently or willfully fails to file in the office of the administrator
12 a written report required by that section.

13 (3) Assess against and collect from a depository a fine not to
14 exceed one hundred dollars (\$100) for each day beyond the time
15 period specified in subdivision (e) that a depository negligently or
16 willfully fails to file in the office of the administrator a written
17 report required by that subdivision.

18 (4) Assess and collect from an agent of depository a fine not to
19 exceed one hundred dollars (\$100) for each day the agent of
20 depository fails to comply with any of the applicable sections
21 specified in subdivision (a) or any applicable regulation or order
22 issued thereunder.

23 (l) (1) In the event that a depository or agent of depository fails
24 to pay a fine assessed by the administrator pursuant to subdivision
25 (k) within 30 days of receipt of the assessment, the administrator
26 may assess and collect an additional penalty of 5 percent of the
27 fine for each month or part thereof that the payment is delinquent.

28 (2) If a depository fails to pay the fines or penalties assessed by
29 the administrator, the administrator may notify local agency
30 treasurers with deposits in the depository.

31 (3) If an agent of depository fails to pay the fines or penalties
32 assessed by the administrator, the administrator may notify local
33 agency treasurers who have authorized the agent of depository as
34 provided in Sections 53649 and 53656, and may by order revoke
35 the authorization of the agent of depository as provided in
36 subdivision (i).

37 (m) The amendments to this section enacted by the Legislature
38 during the 1999–2000 Regular Session shall become operative on
39 January 1, 2001.

~~SEC. 110.~~

SEC. 112. Section 63021.5 of the Government Code is amended to read:

63021.5. (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

(1) The Director of Finance or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Director of the Governor's Office of Business and Economic Development or his or her designee, who shall serve as chair of the board.

(4) An appointee of the Governor.

(5) The Secretary of Transportation or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

~~SEC. 111.~~

SEC. 113. Section 65040.12 of the Government Code is amended to read:

65040.12. (a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with the Secretaries of California Environmental Protection, Natural Resources, Transportation, and Business, Consumer Services, and Housing, the Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code, any other appropriate state agencies, and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898, and from the Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(c) When it adopts its next edition of the general plan guidelines pursuant to Section 65040.2, but in no case later than July 1, 2003, the office shall include guidelines for addressing environmental justice matters in city and county general plans. The office shall hold at least one public hearing prior to the release of any draft guidelines, and at least one public hearing after the release of the draft guidelines. The hearings may be held at the regular meetings of the Planning Advisory and Assistance Council.

(d) The guidelines developed by the office pursuant to subdivision (c) shall recommend provisions for general plans to do all of the following:

(1) Propose methods for planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community, given the fiscal and legal constraints that restrict the siting of these facilities.

(2) Propose methods for providing for the location, if any, of industrial facilities and uses that, even with the best available technology, will contain or produce material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety, in a manner that seeks to avoid over-concentrating these uses in proximity to schools or residential dwellings.

1 (3) Propose methods for providing for the location of new
2 schools and residential dwellings in a manner that seeks to avoid
3 locating these uses in proximity to industrial facilities and uses
4 that will contain or produce material that because of its quantity,
5 concentration, or physical or chemical characteristics, poses a
6 significant hazard to human health and safety.

7 (4) Propose methods for promoting more livable communities
8 by expanding opportunities for transit-oriented development so
9 that residents minimize traffic and pollution impacts from traveling
10 for purposes of work, shopping, schools, and recreation.

11 (e) For the purposes of this section, “environmental justice”
12 means the fair treatment of people of all races, cultures, and
13 incomes with respect to the development, adoption,
14 implementation, and enforcement of environmental laws,
15 regulations, and policies.

16 ~~SEC. 112.~~

17 *SEC. 114.* Section 91550 of the Government Code is amended
18 to read:

19 91550. There is in state government the California Industrial
20 Development Financing Advisory Commission, consisting of five
21 members, as follows:

22 (a) The Treasurer, who shall serve as chairperson.

23 (b) The Controller.

24 (c) The Director of Finance.

25 (d) The Director of the Governor’s Office of Business and
26 Economic Development.

27 (e) The Commissioner of Business Oversight.

28 Members of the commission may each designate a deputy or
29 employee in his or her agency to act for him or her at all meetings
30 of the commission. The first meeting shall be convened by the
31 Treasurer.

32 ~~SEC. 113.~~

33 *SEC. 115.* Section 99055 of the Government Code is amended
34 to read:

35 99055. (a) Solely for the purpose of authorizing the issuance
36 and sale pursuant to the State General Obligation Bond Law of
37 the bonds authorized by this title and the making of those
38 determinations and the taking of other actions as are authorized
39 by this title, the Economic Recovery Financing Committee is
40 hereby created. For purposes of this title, the Economic Recovery

1 Financing Committee is “the committee” as that term is used in
2 the State General Obligation Bond Law (Chapter 4 (commencing
3 with Section 16720) of Part 3 of Division 4 of Title 2).

4 (b) The committee consists of all of the following members:

5 (1) The Governor or his or her designee.

6 (2) The Director of Finance.

7 (3) The Treasurer.

8 (4) The Controller.

9 (5) The Director of the Governor’s Office of Business and
10 Economic Development.

11 (6) The Director of General Services.

12 (7) The Director of Transportation.

13 (c) Notwithstanding any other provision of law, any member
14 may designate a deputy to act as that member in his or her place
15 and stead for all purposes, as though the member were personally
16 present.

17 (d) The Legislature finds and declares that each member of the
18 committee has previously acted as a member of a similar finance
19 committee.

20 (e) A majority of the members of the committee shall constitute
21 a quorum of the committee and may act for the committee.

22 (f) The Director of Finance shall serve as chairperson of the
23 committee.

24 ~~SEC. 114.~~

25 *SEC. 116.* Section 71.4 of the Harbors and Navigation Code
26 is amended to read:

27 71.4. (a) (1) The division, subject to the approval of the
28 Legislature in accordance with Section 85.2, may make loans to
29 qualified cities, counties, or districts having power to acquire,
30 construct, and operate small craft harbors, for the design, planning,
31 acquisition, construction, improvement, maintenance, or operation
32 of small craft harbors and facilities in connection with the harbors,
33 and connecting waterways, if the division finds that the project is
34 feasible.

35 (2) The minimum annual rate of interest charged by the division
36 for a loan shall be set annually by the division and shall be based
37 on the Pooled Money Investment Account interest rate.

38 (b) The division shall establish, by rules and regulations, policies
39 and standards to be followed in making loans pursuant to this
40 section so as to further the proper development and maintenance

1 of a statewide system of small craft harbors and connecting
2 waterways. To the greatest extent possible, the division shall adhere
3 to customary commercial practices to ensure that loans made
4 pursuant to this section are adequately secured and that the loans
5 are repaid consistent with the terms of the loan agreement. Any
6 rules and regulations shall include policies and standards for
7 restrooms, vessel pumpout facilities, oil recycling facilities, and
8 receptacles for the purpose of separating, reusing, or recycling all
9 solid waste materials.

10 (c) The division shall develop weighing and ranking criteria to
11 qualify and prioritize the public loans.

12 (d) A loan under this section shall be repaid as provided in
13 Section 70.

14 (e) Rates to be charged for the use of the boating facilities shall
15 be established by the city, county, or district, subject to the approval
16 of the division, in every loan contract. The division shall concern
17 itself with the rates charged only as prescribed in Section 71.8.
18 The rates set shall be based on a monthly berthing charge, and the
19 division shall monitor these rates to ensure that the berthing charges
20 are sufficient to ensure timely and complete repayment of the loan.

21 (f) The division shall submit any project for which it
22 recommends any loan be made to the Governor for inclusion in
23 the Budget Bill.

24 (g) The division may restate an existing loan under this article,
25 upon written request by the borrower.

26 ~~SEC. 115.~~

27 *SEC. 117.* Section 71.7 of the Harbors and Navigation Code
28 is amended to read:

29 71.7. Notwithstanding any other provision of this chapter,
30 Section 82, or any contract or agreement to the contrary, loan
31 payments on the loan on behalf of Spud Point Marina in the County
32 of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516
33 of Section 2.00 of the Budget Act of 1982, and administered by
34 the division, may be renegotiated by the division and the County
35 of Sonoma, to solve the fiscal problems involving the marina
36 existing on the effective date of this section as enacted during the
37 1994 portion of the 1993–94 Regular Session.

38 ~~SEC. 116.~~

39 *SEC. 118.* Section 72.6 of the Harbors and Navigation Code
40 is amended to read:

1 72.6. Transfers pursuant to Section 70, loans pursuant to
2 Section 71.4, and grants pursuant to Section 72.5 shall be made
3 by the division with the advice of the commission.

4 ~~SEC. 117.~~

5 *SEC. 119.* Section 76.5 of the Harbors and Navigation Code
6 is amended to read:

7 76.5. In processing applications under this article, the division
8 shall give priority to applications from qualified private marina
9 owners who have not received previous loans from the department.
10 If the department finds a proposed loan project is feasible, the loan
11 request shall be submitted to the commission for its advice.

12 ~~SEC. 118.~~

13 *SEC. 120.* Section 76.6 of the Harbors and Navigation Code
14 is amended to read:

15 76.6. Loans made under this article shall include, but are not
16 limited to, the following terms and conditions:

17 (a) The minimum annual rate of interest charged by the division
18 for a loan shall be set annually by the division and shall be a rate
19 equal to 1 percent per annum plus the prime or base rate of interest.

20 (b) The division shall require collateral in a minimum amount
21 of 110 percent of the loan.

22 (c) The repayment period of a loan shall not exceed 20 years,
23 or be longer than the length of the borrower's leasehold estate,
24 including renewal options, if the loan is based upon a leasehold
25 estate of the borrower.

26 (d) All loans shall amortize the principal over the term of the
27 loan. However, a loan shall become due and payable in full if the
28 borrower sells or otherwise transfers the recreational marina
29 developed with divisional funds, unless the transfer is, by reason
30 of the death of the borrower, to the borrower's heirs.

31 (e) The division's loans shall not be subordinated to any future
32 loans obtained by a private marina owner, except in those cases
33 involving loans acquired for refinancing previous senior loans.

34 (f) The division may allow assumption of loans from the original
35 borrower by future parties, subject to completion of the application
36 process and upon approval by the division.

37 (g) The division may, upon written request by the borrower,
38 restate an existing loan.

1 ~~SEC. 119.~~

2 *SEC. 121.* Section 82 of the Harbors and Navigation Code, as
3 added by Section 2 of Chapter 136 of the Statutes of 2012, is
4 amended to read:

5 82. The division, consistent with Section 82.3, and in
6 furtherance of the public interest and in accordance therewith, shall
7 have only the following duties with respect to the commission:

8 (a) To submit any proposed changes in regulations pertaining
9 to boating functions and responsibilities of the division to the
10 commission for its advice and comment prior to enactment of
11 changes.

12 (b) To submit proposals for transfers pursuant to Section 70,
13 loans pursuant to Section 71.4 or 76.3, and grants pursuant to
14 Section 72.5 to the commission for its advice and comment.

15 (c) To submit any proposed project for which it is making a
16 determination of eligibility for funding from the Harbors and
17 Watercraft Revolving Fund to the commission if that project could
18 have a potentially significant impact on either public health or
19 safety, public access, or the environment for the commission's
20 advice and comment prior to making that determination.

21 (d) To annually submit a report on its budget and expenditures
22 to the commission for its advice and comment.

23 (e) To cause studies and surveys to be made of the need for
24 small craft harbors and connecting waterways throughout the state
25 and the most suitable sites therefore, and submit those studies and
26 surveys to the commission for advice and comment.

27 ~~SEC. 120.~~

28 *SEC. 122.* Section 82.3 of the Harbors and Navigation Code
29 is amended to read:

30 82.3. The commission shall have the following particular duties
31 and responsibilities:

32 (a) To be fully informed regarding all governmental activities
33 affecting programs administered by the division.

34 (b) To meet at least four times per year at various locations
35 throughout the state to receive comments on the implementation
36 of the programs administered by the division and establish an
37 annual calendar of proposed meetings at the beginning of each
38 calendar year. The meetings shall include a public meeting, before
39 the beginning of each funding cycle of a loan and grant program
40 funded from the Harbors and Watercraft Revolving Fund, to collect

1 public input concerning the program, recommendations for program
2 improvements, and specific project needs for the system.

3 (c) To hold a public hearing to receive public comment regarding
4 any proposed project subject to subdivision (c) of Section 82 at a
5 location in close geographic proximity to the proposed project,
6 unless a hearing consistent with federal law or regulation has
7 already been held regarding the project.

8 (d) To consider, upon the request of any owner or tenant whose
9 property is in the vicinity of any proposed project subject to
10 subdivision (c) of Section 82, any alleged adverse impacts
11 occurring on that person's property from activities undertaken
12 pursuant to this code, and recommend to the division suitable
13 measures for the prevention of any adverse impacts determined
14 by the commission to be occurring, and suitable measures for the
15 restoration of adversely impacted property.

16 (e) To review and comment annually to the division on the
17 proposed budget of expenditures from the revolving fund.

18 (f) To review all proposals for local and regional waterways,
19 piers, harbors, docks, or other recreational areas that have applied
20 for grant or loan funds from the division prior to a final
21 determination of eligibility by the division.

22 (g) (1) With support and assistance from the division, to prepare
23 and submit a program report to the Governor, the Assembly
24 Committee on Water, Parks and Wildlife, the Senate Committee
25 on Natural Resources and Water, the Senate Committee on
26 Appropriations, and the Assembly Committee on Appropriations
27 on or before January 1, 2013, and every three years thereafter. The
28 report shall be adopted by the commission after discussing the
29 contents during two or more public meetings. The report shall
30 address the status of any regulations adopted or being considered
31 by the division and any loan or grant that has been or is being
32 considered for a determination of eligibility by the division pending
33 the previous report.

34 (2) A report required to be submitted pursuant to paragraph (1)
35 shall be submitted in compliance with Section 9795 of the
36 Government Code.

37 ~~SEC. 121.~~

38 *SEC. 123.* Section 40448.6 of the Health and Safety Code is
39 amended to read:

1 40448.6. The Legislature hereby finds and declares all of the
2 following:

3 (a) It is necessary to increase the availability of financial
4 assistance to small businesses that are subject to the rules and
5 regulations of the south coast district, in order to minimize
6 economic dislocation and adverse socioeconomic impacts.

7 (b) It is in the public interest that a portion of the funds collected
8 by the south coast district from violators of air pollution regulations
9 be allocated for the purpose of guaranteeing or otherwise reducing
10 the financial risks of providing financial assistance to small
11 businesses which face increased borrowing requirements in order
12 to comply with air pollution control requirements.

13 (c) Public agencies and private lenders have a variety of methods
14 available for providing financing assistance to small businesses
15 and other employers, including taxable bonds, composite or pooled
16 financing instruments, loan guarantees, and credit insurance, which
17 could be utilized in combination with the penalties collected by
18 the south coast district to expand the availability and reduce the
19 cost of financing assistance.

20 (d) The California Pollution Control Financing Authority has
21 funds set aside from previous bond issues, which could be used to
22 guarantee the issuance of bonds or other financing for small
23 businesses for the purchase and installation of pollution control
24 equipment.

25 (e) The Governor's Office of Business and Economic
26 Development, through the small business financial development
27 corporations established pursuant to Chapter 1 (commencing with
28 Section 14000) of Part 5 of Division 3 of Title 1 of the
29 Corporations Code, has the ability to provide state loan guarantees
30 and technical assistance to small businesses needing financial
31 assistance.

32 (f) The Job Training Partnership Division of the Employment
33 Development Department makes funds available for job training
34 programs, including funds for dislocated workers, through the
35 federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

36 (g) It is the policy of the state that the Job Training Partnership
37 Division of the Employment Development Department, in
38 cooperation with the districts and the state board, are encouraged
39 to provide job training programs for workers who, as determined
40 by the department or the local private industry council, have been

1 laid off or dislocated as a result of actions resulting from air quality
2 regulations.

3 (h) It is the policy of the state that the California Pollution
4 Control Financing Authority and other state agencies implementing
5 small business assistance programs, in cooperation with the districts
6 and the state board, are encouraged to provide technical and
7 financial assistance to small businesses to facilitate compliance
8 with air quality regulations.

9 ~~SEC. 122.~~

10 *SEC. 124.* Section 44272 of the Health and Safety Code is
11 amended to read:

12 44272. (a) The Alternative and Renewable Fuel and Vehicle
13 Technology Program is hereby created. The program shall be
14 administered by the commission. The commission shall implement
15 the program by regulation pursuant to the requirements of Chapter
16 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
17 Title 2 of the Government Code. The program shall provide, upon
18 appropriation by the Legislature, competitive grants, revolving
19 loans, loan guarantees, loans, or other appropriate funding
20 measures, to public agencies, vehicle and technology entities,
21 businesses and projects, public-private partnerships, workforce
22 training partnerships and collaboratives, fleet owners, consumers,
23 recreational boaters, and academic institutions to develop and
24 deploy innovative technologies that transform California's fuel
25 and vehicle types to help attain the state's climate change policies.
26 The emphasis of this program shall be to develop and deploy
27 technology and alternative and renewable fuels in the marketplace,
28 without adopting any one preferred fuel or technology.

29 (b) A project that receives more than seventy-five thousand
30 dollars (\$75,000) in funds from the commission shall be approved
31 at a noticed public meeting of the commission and shall be
32 consistent with the priorities established by the investment plan
33 adopted pursuant to Section 44272.5. Under this article, the
34 commission may delegate to the commission's executive director,
35 or his or her designee, the authority to approve either of the
36 following:

37 (1) A contract, grant, loan, or other agreement or award that
38 receives seventy-five thousand dollars (\$75,000) or less in funds
39 from the commission.

1 (2) Amendments to a contract, grant, loan, or other agreement
2 or award as long as the amendments do not increase the amount
3 of the award, change the scope of the project, or modify the purpose
4 of the agreement.

5 (c) The commission shall provide preferences to those projects
6 that maximize the goals of the Alternative and Renewable Fuel
7 and Vehicle Technology Program, based on the following criteria,
8 as applicable:

9 (1) The project's ability to provide a measurable transition from
10 the nearly exclusive use of petroleum fuels to a diverse portfolio
11 of viable alternative fuels that meet petroleum reduction and
12 alternative fuel use goals.

13 (2) The project's consistency with existing and future state
14 climate change policy and low-carbon fuel standards.

15 (3) The project's ability to reduce criteria air pollutants and air
16 toxics and reduce or avoid multimedia environmental impacts.

17 (4) The project's ability to decrease, on a life cycle basis, the
18 discharge of water pollutants or any other substances known to
19 damage human health or the environment, in comparison to the
20 production and use of California Phase 2 Reformulated Gasoline
21 or diesel fuel produced and sold pursuant to California diesel fuel
22 regulations set forth in Article 2 (commencing with Section 2280)
23 of Chapter 5 of Division 3 of Title 13 of the California Code of
24 Regulations.

25 (5) The project does not adversely impact the sustainability of
26 the state's natural resources, especially state and federal lands.

27 (6) The project provides nonstate matching funds. Costs incurred
28 from the date a proposed award is noticed may be counted as
29 nonstate matching funds. The commission may adopt further
30 requirements for the purposes of this paragraph. The commission
31 is not liable for costs incurred pursuant to this paragraph if the
32 commission does not give final approval for the project or the
33 proposed recipient does not meet requirements adopted by the
34 commission pursuant to this paragraph.

35 (7) The project provides economic benefits for California by
36 promoting California-based technology firms, jobs, and businesses.

37 (8) The project uses existing or proposed fueling infrastructure
38 to maximize the outcome of the project.

39 (9) The project's ability to reduce on a life cycle assessment
40 greenhouse gas emissions by at least 10 percent, and higher

1 percentages in the future, from current reformulated gasoline and
2 diesel fuel standards established by the state board.

3 (10) The project's use of alternative fuel blends of at least 20
4 percent, and higher blend ratios in the future, with a preference
5 for projects with higher blends.

6 (11) The project drives new technology advancement for
7 vehicles, vessels, engines, and other equipment, and promotes the
8 deployment of that technology in the marketplace.

9 (d) Only the following shall be eligible for funding:

10 (1) Alternative and renewable fuel projects to develop and
11 improve alternative and renewable low-carbon fuels, including
12 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,
13 hydrogen, and biomethane, among others, and their feedstocks
14 that have high potential for long-term or short-term
15 commercialization, including projects that lead to sustainable
16 feedstocks.

17 (2) Demonstration and deployment projects that optimize
18 alternative and renewable fuels for existing and developing engine
19 technologies.

20 (3) Projects to produce alternative and renewable low-carbon
21 fuels in California.

22 (4) Projects to decrease the overall impact of an alternative and
23 renewable fuel's life cycle carbon footprint and increase
24 sustainability.

25 (5) Alternative and renewable fuel infrastructure, fueling
26 stations, and equipment. The preference in paragraph (10) of
27 subdivision (c) shall not apply to renewable diesel or biodiesel
28 infrastructure, fueling stations, and equipment used solely for
29 renewable diesel or biodiesel fuel.

30 (6) Projects to develop and improve light-, medium-, and
31 heavy-duty vehicle technologies that provide for better fuel
32 efficiency and lower greenhouse gas emissions, alternative fuel
33 usage and storage, or emission reductions, including propulsion
34 systems, advanced internal combustion engines with a 40 percent
35 or better efficiency level over the current market standard,
36 light-weight materials, energy storage, control systems and system
37 integration, physical measurement and metering systems and
38 software, development of design standards and testing and
39 certification protocols, battery recycling and reuse, engine and fuel
40 optimization electronic and electrified components, hybrid

1 technology, plug-in hybrid technology, battery electric vehicle
2 technology, fuel cell technology, and conversions of hybrid
3 technology to plug-in technology through the installation of safety
4 certified supplemental battery modules.

5 (7) Programs and projects that accelerate the commercialization
6 of vehicles and alternative and renewable fuels including buy-down
7 programs through near-market and market-path deployments,
8 advanced technology warranty or replacement insurance,
9 development of market niches, supply-chain development, and
10 research related to the pedestrian safety impacts of vehicle
11 technologies and alternative and renewable fuels.

12 (8) Programs and projects to retrofit medium- and heavy-duty
13 on-road and nonroad vehicle fleets with technologies that create
14 higher fuel efficiencies, including alternative and renewable fuel
15 vehicles and technologies, idle management technology, and
16 aerodynamic retrofits that decrease fuel consumption.

17 (9) Infrastructure projects that promote alternative and renewable
18 fuel infrastructure development connected with existing fleets,
19 public transit, and existing transportation corridors, including
20 physical measurement or metering equipment and truck stop
21 electrification.

22 (10) Workforce training programs related to alternative and
23 renewable fuel feedstock production and extraction, renewable
24 fuel production, distribution, transport, and storage,
25 high-performance and low-emission vehicle technology and high
26 tower electronics, automotive computer systems, mass transit fleet
27 conversion, servicing, and maintenance, and other sectors or
28 occupations related to the purposes of this chapter.

29 (11) Block grants or incentive programs administered by public
30 entities or not-for-profit technology entities for multiple projects,
31 education and program promotion within California, and
32 development of alternative and renewable fuel and vehicle
33 technology centers. The commission may adopt guidelines for
34 implementing the block grant or incentive program, which shall
35 be approved at a noticed public meeting of the commission.

36 (12) Life cycle and multimedia analyses, sustainability and
37 environmental impact evaluations, and market, financial, and
38 technology assessments performed by a state agency to determine
39 the impacts of increasing the use of low-carbon transportation fuels

1 and technologies, and to assist in the preparation of the investment
2 plan and program implementation.

3 (13) A program to provide funding for homeowners who
4 purchase a plug-in electric vehicle to offset costs associated with
5 modifying electrical sources to include a residential plug-in electric
6 vehicle charging station. In establishing this program, the
7 commission shall consider funding criteria to maximize the public
8 benefit of the program.

9 (e) The commission may make a single source or sole source
10 award pursuant to this section for applied research. The same
11 requirements set forth in Section 25620.5 of the Public Resources
12 Code shall apply to awards made on a single source basis or a sole
13 source basis. This subdivision does not authorize the commission
14 to make a single source or sole source award for a project or
15 activity other than for applied research.

16 (f) The commission may do all of the following:

17 (1) Contract with the Treasurer to expend funds through
18 programs implemented by the Treasurer, if the expenditure is
19 consistent with all of the requirements of this article and Article
20 1 (commencing with Section 44270).

21 (2) Contract with small business financial development
22 corporations established by the Governor's Office of Business and
23 Economic Development to expend funds through the Small
24 Business Loan Guarantee Program if the expenditure is consistent
25 with all of the requirements of this article and Article 1
26 (commencing with Section 44270).

27 (3) Advance funds, pursuant to an agreement with the
28 commission, to any of the following:

29 (A) A public entity.

30 (B) A recipient to enable it to make advance payments to a
31 public entity that is a subrecipient of the funds and under a binding
32 and enforceable subagreement with the recipient.

33 (C) An administrator of a block grant program.

34 ~~SEC. 123.~~

35 *SEC. 125.* Section 326.3 of the Penal Code is amended to read:

36 326.3. (a) The Legislature finds and declares all of the
37 following:

38 (1) Nonprofit organizations provide important and essential
39 educational, philanthropic, and social services to the people of the
40 State of California.

1 (2) One of the great strengths of California is a vibrant nonprofit
2 sector.

3 (3) Nonprofit and philanthropic organizations touch the lives
4 of every Californian through service and employment.

5 (4) Many of these services would not be available if nonprofit
6 organizations did not provide them.

7 (5) There is a need to provide methods of fundraising to
8 nonprofit organizations to enable them to provide these essential
9 services.

10 (6) Historically, many nonprofit organizations have used
11 charitable bingo as one of their key fundraising strategies to
12 promote the mission of the charity.

13 (7) Legislation is needed to provide greater revenues for
14 nonprofit organizations to enable them to fulfill their charitable
15 purposes, and especially to meet their increasing social service
16 obligations.

17 (8) Legislation is also needed to clarify that existing law requires
18 that all charitable bingo must be played using a tangible card and
19 that the only permissible electronic devices to be used by charitable
20 bingo players are card-minding devices.

21 (b) Neither the prohibition on gambling in this chapter nor in
22 Chapter 10 (commencing with Section 330) applies to any remote
23 caller bingo game that is played or conducted in a city, county, or
24 city and county pursuant to an ordinance enacted under Section
25 19 of Article IV of the California Constitution, if the ordinance
26 allows a remote caller bingo game to be played or conducted only
27 in accordance with this section, including the following
28 requirements:

29 (1) The game may be conducted only by the following
30 organizations:

31 (A) An organization that is exempted from the payment of the
32 taxes imposed under the Corporation Tax Law by Section 23701a,
33 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
34 23701w of the Revenue and Taxation Code.

35 (B) A mobilehome park association.

36 (C) A senior citizens organization.

37 (D) Charitable organizations affiliated with a school district.

38 (2) The organization conducting the game shall have been
39 incorporated or in existence for three years or more.

1 (3) The organization conducting the game shall be licensed
2 pursuant to subdivision (I) of Section 326.5.

3 (4) The receipts of the game shall be used only for charitable
4 purposes. The organization conducting the game shall determine
5 the disbursement of the net receipts of the game.

6 (5) The operation of bingo may not be the primary purpose for
7 which the organization is organized.

8 (c) (1) A city, county, or city and county may adopt an
9 ordinance in substantially the following form to authorize remote
10 caller bingo in accordance with the requirements of subdivision
11 (b):
12

13 Sec. __.01. Legislative Authorization.

14 This chapter is adopted pursuant to Section 19 of Article IV of
15 the California Constitution, as implemented by Sections 326.3 and
16 326.4 of the Penal Code.

17 Sec. __.02. Remote Caller Bingo Authorized.

18 Remote Caller Bingo may be lawfully played in the [City,
19 County, or City and County] pursuant to the provisions of Sections
20 326.3 and 326.4 of the Penal Code, and this chapter, and not
21 otherwise.

22 Sec. __.03. Qualified Applicants: Applicants for Licensure.

23 (a) The following organizations are qualified to apply to the
24 License Official for a license to operate a bingo game if the receipts
25 of those games are used only for charitable purposes:

26 (1) An organization exempt from the payment of the taxes
27 imposed under the Corporation Tax Law by Section 23701a,
28 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
29 23701w of the Revenue and Taxation Code.

30 (2) A mobilehome park association of a mobilehome park that
31 is situated in the [City, County, or City and County].

32 (3) Senior citizen organizations.

33 (4) Charitable organizations affiliated with a school district.

34 (b) The application shall be in a form prescribed by the License
35 Official and shall be accompanied by a nonrefundable filing fee
36 in an amount determined by resolution of the [Governing Body of
37 the City, County, or City and County] from time to time. The
38 following documentation shall be attached to the application, as
39 applicable:

1 (1) A certificate issued by the Franchise Tax Board certifying
2 that the applicant is exempt from the payment of the taxes imposed
3 under the Corporation Tax Law pursuant to Section 23701a,
4 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
5 23701w of the Revenue and Taxation Code. In lieu of a certificate
6 issued by the Franchise Tax Board, the License Official may refer
7 to the Franchise Tax Board's Internet Web site to verify that the
8 applicant is exempt from the payment of the taxes imposed under
9 the Corporation Tax Law.

10 (2) Other evidence as the License Official determines is
11 necessary to verify that the applicant is a duly organized
12 mobilehome park association of a mobilehome park situated in
13 the [City, County, or City and County].

14 Sec. __.04. License Application: Verification.

15 The license shall not be issued until the License Official has
16 verified the facts stated in the application and determined that the
17 applicant is qualified.

18 Sec. __.05. Annual Licenses.

19 A license issued pursuant to this chapter shall be valid until the
20 end of the calendar year, at which time the license shall expire. A
21 new license shall only be obtained upon filing a new application
22 and payment of the license fee. The fact that a license has been
23 issued to an applicant creates no vested right on the part of the
24 licensee to continue to offer bingo for play. The [Governing Body
25 of the City, County, or City and County] expressly reserves the
26 right to amend or repeal this chapter at any time by resolution. If
27 this chapter is repealed, all licenses issued pursuant to this chapter
28 shall cease to be effective for any purpose on the effective date of
29 the repealing resolution.

30 Sec. __.06. Conditions of Licensure.

31 (a) Any license issued pursuant to this chapter shall be subject
32 to the conditions contained in Sections 326.3 and 326.4 of the
33 Penal Code, and each licensee shall comply with the requirements
34 of those provisions.

35 (b) Each license issued pursuant to this chapter shall be subject
36 to the following additional conditions:

37 (1) Bingo games shall not be conducted by any licensee on more
38 than two days during any week, except that a licensee may hold
39 one additional game, at its election, in each calendar quarter.

1 (2) The licensed organization is responsible for ensuring that
2 the conditions of this chapter and Sections 326.3 and 326.4 of the
3 Penal Code are complied with by the organization and its officers
4 and members. A violation of any one or more of those conditions
5 or provisions shall constitute cause for the revocation of the
6 organization's license. At the request of the organization, the
7 [Governing Body of the City, County, or City and County] shall
8 hold a public hearing before revoking any license issued pursuant
9 to this chapter.

10
11 (3) This section shall not require a city, county, or city and
12 county to use this model ordinance in order to authorize remote
13 caller bingo.

14 (c) It is a misdemeanor for any person to receive or pay a profit,
15 wage, or salary from any remote caller bingo game, provided that
16 administrative, managerial, technical, financial, and security
17 personnel employed by the organization conducting the bingo
18 game may be paid reasonable fees for services rendered from the
19 revenues of bingo games, as provided in subdivision (m), except
20 that fees paid under those agreements shall not be determined as
21 a percentage of receipts or other revenues from, or be dependent
22 on the outcome of, the game.

23 (d) A violation of subdivision (d) shall be punishable by a fine
24 not to exceed ten thousand dollars (\$10,000), which fine shall be
25 deposited in the general fund of the city, county, or city and county
26 that enacted the ordinance authorizing the remote caller bingo
27 game. A violation of any provision of this section, other than
28 subdivision (d), is a misdemeanor.

29 (e) The city, county, or city and county that enacted the
30 ordinance authorizing the remote caller bingo game, or the Attorney
31 General, may bring an action to enjoin a violation of this section.

32 (f) No minors shall be allowed to participate in any remote caller
33 bingo game.

34 (g) A remote caller bingo game shall not include any site that
35 is not located within this state.

36 (h) An organization authorized to conduct a remote caller bingo
37 game pursuant to subdivision (b) shall conduct the game only on
38 property that is owned or leased by the organization, or the use of
39 which is donated to the organization. This subdivision shall not
40 be construed to require that the property that is owned or leased

1 by, or the use of which is donated to, the organization be used or
2 leased exclusively by, or donated exclusively to, that organization.

3 (i) (1) All remote caller bingo games shall be open to the public,
4 not just to the members of the authorized organization.

5 (2) No more than 750 players may participate in a remote caller
6 bingo game in a single location.

7 (3) If the Governor of California or the President of the United
8 States declares a state of emergency in response to a natural disaster
9 or other public catastrophe occurring in California, an organization
10 authorized to conduct remote caller bingo games may, while that
11 declaration is in effect, conduct a remote caller bingo game
12 pursuant to this section with more than 750 participants in a single
13 venue if the net proceeds of the game, after deduction of prizes
14 and overhead expenses, are donated to or expended exclusively
15 for the relief of the victims of the disaster or catastrophe, and the
16 organization gives the California Gambling Control Commission
17 at least 10 days' written notice of the intent to conduct that game.

18 (4) An organization authorized to conduct remote caller bingo
19 games shall provide the department with at least 30 days' advance
20 written notice of its intent to conduct a remote caller bingo game.
21 That notice shall include all of the following:

22 (A) The legal name of the organization and the address of record
23 of the agent upon whom legal notice may be served.

24 (B) The locations of the caller and remote players, whether the
25 property is owned by the organization or donated, and if donated,
26 by whom.

27 (C) The name of the licensed caller and site manager.

28 (D) The names of administrative, managerial, technical,
29 financial, and security personnel employed.

30 (E) The name of the vendor and any person or entity maintaining
31 the equipment used to operate and transmit the game.

32 (F) The name of the person designated as having a fiduciary
33 responsibility for the game pursuant to paragraph (2) of subdivision
34 (k).

35 (G) The license numbers of all persons specified in
36 subparagraphs (A) to (F), inclusive, who are required to be licensed.

37 (H) A copy of the local ordinance for any city, county, or city
38 and county in which the game will be played. The department shall
39 post the ordinance on its Internet Web site.

(j) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other provision of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(k) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(l) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, “overhead costs” includes, but is not limited to, amounts paid for rent and equipment

1 leasing and the reasonable fees authorized to be paid to
2 administrative, managerial, technical, financial, and security
3 personnel employed by the organization pursuant to subdivision
4 (d). For the purpose of keeping its overhead costs below 20 percent
5 of gross sales, an authorized organization may elect to deduct all
6 or a portion of the fees paid to financial institutions for the use and
7 processing of credit card sales from the amount of gross revenues
8 awarded for prizes. In that case, the redirected fees for the use and
9 processing of credit card sales shall not be included in “overhead
10 costs” as defined in the California Remote Caller Bingo Act.
11 Additionally, fees paid to financial institutions for the use and
12 processing of credit card sales shall not be deducted from the
13 proceeds retained by the charitable organization.

14 (m) A person shall not be allowed to participate in a remote
15 caller bingo game unless the person is physically present at the
16 time and place where the remote caller bingo game is being
17 conducted. A person shall be deemed to be physically present at
18 the place where the remote caller bingo game is being conducted
19 if he or she is present at any of the locations participating in the
20 remote caller bingo game in accordance with this section.

21 (n) (1) An organization shall not cosponsor a remote caller
22 bingo game with one or more other organizations unless one of
23 the following is true:

24 (A) All of the cosponsors are affiliated under the master charter
25 or articles and bylaws of a single organization.

26 (B) All of the cosponsors are affiliated through an organization
27 described in paragraph (1) of subdivision (b), and have the same
28 Internal Revenue Service activity code.

29 (2) Notwithstanding paragraph (1), a maximum of 10
30 unaffiliated organizations described in paragraph (1) of subdivision
31 (b) may enter into an agreement to cosponsor a remote caller game,
32 provided that the game shall have not more than 10 locations.

33 (3) An organization shall not conduct remote caller bingo more
34 than two days per week.

35 (4) Before sponsoring or operating any game authorized under
36 paragraph (1) or (2), each of the cosponsoring organizations shall
37 have entered into a written agreement, a copy of which shall be
38 provided to the Department of Justice, setting forth how the
39 expenses and proceeds of the game are to be allocated among the
40 participating organizations, the bank accounts into which all

1 receipts are to be deposited and from which all prizes are to be
2 paid, and how game records are to be maintained and subjected to
3 annual audit.

4 (o) The value of prizes awarded during the conduct of any
5 remote caller bingo game shall not exceed 37 percent of the gross
6 receipts for that game. When an authorized organization elects to
7 deduct fees paid for the use and processing of credit card sales
8 from the amount of gross revenues for that game awarded for
9 prizes, the maximum amount of gross revenues that may be
10 awarded for prizes shall not exceed 37 percent of the gross receipts
11 for that game, less the amount of redirected fees paid for the use
12 and processing of credit card sales. Every remote caller bingo game
13 shall be played until a winner is declared. Progressive prizes are
14 prohibited. The declared winner of a remote caller bingo game
15 shall provide his or her identifying information and a mailing
16 address to the onsite manager of the remote caller bingo game.
17 Prizes shall be paid only by check; no cash prizes shall be paid.
18 The organization conducting the remote caller bingo game may
19 issue a check to the winner at the time of the game, or may send
20 a check to the declared winner by United States Postal Service
21 certified mail, return receipt requested. All prize money exceeding
22 state and federal exemption limits on prize money shall be subject
23 to income tax reporting and withholding requirements under
24 applicable state and federal laws and regulations and those reports
25 and withholding shall be forwarded, within 10 business days, to
26 the appropriate state or federal agency on behalf of the winner. A
27 report shall accompany the amount withheld identifying the person
28 on whose behalf the money is being sent. Any game interrupted
29 by a transmission failure, electrical outage, or act of God shall be
30 considered void in the location that was affected. A refund for a
31 canceled game or games shall be provided to the purchasers.

32 (p) (1) The California Gambling Control Commission shall
33 regulate remote caller bingo, including, but not limited to, licensure
34 and operation. The commission shall establish reasonable criteria
35 regulating, and shall require the licensure of, the following:

36 (A) Any person who conducts a remote caller bingo game
37 pursuant to this section, including, but not limited to, an employee,
38 a person having fiduciary responsibility for a remote caller bingo
39 game, a site manager, and a bingo caller.

1 (B) Any person who directly or indirectly manufactures,
2 distributes, supplies, vends, leases, or otherwise provides supplies,
3 devices, services, or other equipment designed for use in the
4 playing of a remote caller bingo game by any nonprofit
5 organization.

6 (C) Beginning January 31, 2009, or a later date as may be
7 established by the commission, all persons described in
8 subparagraph (A) or (B) may submit to the commission a letter of
9 intent to submit an application for licensure. The letter shall clearly
10 identify the principal applicant, all categories under which the
11 application will be filed, and the names of all those particular
12 individuals who are applying. Each charitable organization shall
13 provide an estimate of the frequency with which it plans to conduct
14 remote caller bingo operations, including the number of locations.
15 The letter of intent may be withdrawn or updated at any time.

16 (2) (A) The Department of Justice shall conduct background
17 investigations and conduct field enforcement as it relates to remote
18 caller bingo consistent with the Gambling Control Act (Chapter 5
19 (commencing with Section 19800) of Division 8 of the Business
20 and Professions Code) and as specified in regulations promulgated
21 by the commission.

22 (B) Fees to cover background investigation costs shall be paid
23 and accounted for in accordance with Section 19867 of the
24 Business and Professions Code.

25 (3) (A) Every application for a license or approval shall be
26 submitted to the department and accompanied by a nonrefundable
27 fee, the amount of which shall be adopted by the commission by
28 regulation.

29 (B) Fees and revenue collected pursuant to this paragraph shall
30 be deposited in the California Bingo Fund, which is hereby created
31 in the State Treasury. The funds deposited in the California Bingo
32 Fund shall be available, upon appropriation by the Legislature, for
33 expenditure by the commission and the department exclusively
34 for the support of the commission and department in carrying out
35 their duties and responsibilities under this section and Section
36 326.5.

37 (C) A loan is hereby authorized from the Gambling Control
38 Fund to the California Bingo Fund on or after January 1, 2009, in
39 an amount of up to five hundred thousand dollars (\$500,000) to
40 fund operating, personnel, and other startup costs incurred by the

1 commission relating to this act. Funds from the California Bingo
2 Fund shall be available to the commission upon appropriation by
3 the Legislature in the annual Budget Act. The loan shall be subject
4 to all of the following conditions:

5 (i) The loan shall be repaid to the Gambling Control Fund as
6 soon as there is sufficient money in the California Bingo Fund to
7 repay the amount loaned, but no later than five years after the date
8 of the loan.

9 (ii) Interest on the loan shall be paid from the California Bingo
10 Fund at the rate accruing to moneys in the Pooled Money
11 Investment Account.

12 (iii) The terms and conditions of the loan are approved, prior
13 to the transfer of funds, by the Department of Finance pursuant to
14 appropriate fiscal standards.

15 The commission may assess, and the department may collect,
16 reasonable fees and deposits as necessary to defray the costs of
17 regulation and oversight.

18 (q) The administrative, managerial, technical, financial, and
19 security personnel employed by an organization that conducts
20 remote caller bingo games shall apply for, obtain, and thereafter
21 maintain valid work permits, as defined in Section 19805 of the
22 Business and Professions Code.

23 (r) An organization that conducts remote caller bingo games
24 shall retain records in connection with the remote caller bingo
25 game for five years.

26 (s) (1) All equipment used for remote caller bingo shall be
27 approved in advance by the Department of Justice pursuant to
28 regulations adopted by the department.

29 (2) The department shall monitor operation of the transmission
30 and other equipment used for remote caller bingo, and monitor the
31 game.

32 (t) (1) As used in this section, “remote caller bingo game”
33 means a game of bingo, as defined in subdivision (o) of Section
34 326.5, in which the numbers or symbols on randomly drawn plastic
35 balls are announced by a natural person present at the site at which
36 the live game is conducted, and the organization conducting the
37 bingo game uses audio and video technology to link any of its
38 in-state facilities for the purpose of transmitting the remote calling
39 of a live bingo game from a single location to multiple locations
40 owned, leased, or rented by that organization, or as described in

1 subdivision (o) of this section. The audio or video technology used
2 to link the facilities may include cable, Internet, satellite,
3 broadband, or telephone technology, or any other means of
4 electronic transmission that ensures the secure, accurate, and
5 simultaneous transmission of the announcement of numbers or
6 symbols in the game from the location at which the game is called
7 by a natural person to the remote location or locations at which
8 players may participate in the game. The drawing of each ball
9 bearing a number or symbol by the natural person calling the game
10 shall be visible to all players as the ball is drawn, including through
11 a simultaneous live video feed at remote locations at which players
12 may participate in the game.

13 (2) The caller in the live game must be licensed by the California
14 Gambling Control Commission. A game may be called by a
15 nonlicensed caller if the drawing of balls and calling of numbers
16 or symbols by that person is observed and personally supervised
17 by a licensed caller.

18 (3) Remote caller bingo games shall be played using traditional
19 paper or other tangible bingo cards and daubers, and shall not be
20 played by using electronic devices, except card-minding devices,
21 as described in paragraph (1) of subdivision (p) of Section 326.5.

22 (4) Prior to conducting a remote caller bingo game, the
23 organization that conducts remote caller bingo shall submit to the
24 Department of Justice the controls, methodology, and standards
25 of game play, which shall include, but not be limited to, the
26 equipment used to select bingo numbers and create or originate
27 cards, control or maintenance, distribution to participating
28 locations, and distribution to players. Those controls,
29 methodologies, and standards shall be subject to prior approval by
30 the department, provided that the controls shall be deemed
31 approved by the department after 90 days from the date of
32 submission unless disapproved.

33 (u) A location shall not be eligible to participate in a remote
34 caller bingo game if bingo games are conducted at that location
35 in violation of Section 326.5 or any regulation adopted by the
36 commission pursuant to Section 19841 of the Business and
37 Professions Code, including, but not limited to, a location at which
38 unlawful electronic devices are used.

39 (v) (1) The vendor of the equipment used in a remote caller
40 bingo game shall have its books and records audited at least

1 annually by an independent California certified public accountant
2 and shall submit the results of that audit to the department within
3 120 days after the close of the vendor's fiscal year. In addition,
4 the department may audit the books and records of the vendor at
5 any time.

6 (2) An authorized organization that conducts remote caller bingo
7 games shall provide copies of the records pertaining to those games
8 to the department within 30 days after the end of each calendar
9 quarter. In addition, those records shall be audited by an
10 independent California certified public accountant at least annually
11 and copies of the audit reports shall be provided to the department
12 within 120 days after the close of the organization's fiscal year.
13 The audit report shall account for the annual amount of fees paid
14 to financial institutions for the use and processing of credit card
15 sales by the authorized organization and the amount of fees for
16 the use and processing of credit card sales redirected from
17 "overhead costs" and deducted from the amount of gross revenues
18 awarded for prizes.

19 (3) The costs of the licensing and audits required by this section
20 shall be borne by the person or entity required to be licensed or
21 audited. The audit shall enumerate the receipts for remote caller
22 bingo, the prizes disbursed, the overhead costs, and the amount
23 retained by the nonprofit organization. The department may audit
24 the books and records of an organization that conducts remote
25 caller bingo games at any time.

26 (4) If, during an audit, the department identifies practices in
27 violation of this section, the license for the audited entity may be
28 suspended pending review and hearing before the commission for
29 a final determination.

30 (5) Any audit required to be conducted by the department shall
31 not commence before January 1, 2010.

32 (w) (1) The provisions of this section are severable. If any
33 provision of this section or its application is held invalid, that
34 invalidity shall not affect other provisions or applications that can
35 be given effect without the invalid provision or application.

36 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of
37 subdivision (u), or the application of either of those provisions, is
38 held invalid, this entire section shall be invalid.

39 (x) The commission shall submit a report to the Legislature, on
40 or before January 1, 2012, on the fundraising effectiveness and

1 regulation of remote caller bingo, and other matters that are relevant
2 to the public interest regarding remote caller bingo.

3 (y) The following definitions apply for purposes of this section:

4 (1) “Commission” means the California Gambling Control
5 Commission.

6 (2) “Department” means the Department of Justice.

7 (3) “Person” includes a natural person, corporation, limited
8 liability company, partnership, trust, joint venture, association, or
9 any other business organization.

10 ~~SEC. 124.~~

11 *SEC. 126.* Section 326.4 of the Penal Code is amended to read:

12 326.4. (a) Consistent with the Legislature’s finding that
13 card-minding devices, as described in subdivision (p) of Section
14 326.5, are the only permissible electronic devices to be used by
15 charity bingo players, and in an effort to ease the transition to
16 remote caller bingo on the part of those nonprofit organizations
17 that, as of July 1, 2008, used electronic devices other than
18 card-minding devices to conduct games in reliance on an ordinance
19 of a city, county, or city and county that, as of July 1, 2008,
20 expressly recognized the operation of electronic devices other than
21 card-minding devices by organizations purportedly authorized to
22 conduct bingo in the city, county, or city and county, there is
23 hereby created the Charity Bingo Mitigation Fund.

24 (b) The Charity Bingo Mitigation Fund shall be administered
25 by the Department of Justice.

26 (c) Mitigation payments to be made by the Charity Bingo
27 Mitigation Fund shall not exceed five million dollars (\$5,000,000)
28 in the aggregate.

29 (d) (1) To allow the Charity Bingo Mitigation Fund to become
30 immediately operable, five million dollars (\$5,000,000) shall be
31 loaned from the accrued interest in the Indian Gaming Special
32 Distribution Fund to the Charity Bingo Mitigation Fund on or after
33 January 1, 2009, to make mitigation payments to eligible nonprofit
34 organizations. Five million dollars (\$5,000,000) of this loan amount
35 is hereby appropriated to the California Gambling Control
36 Commission for the purposes of providing mitigation payments
37 to certain charitable organizations, as described in subdivision (e).
38 Pursuant to Section 16304 of the Government Code, after three
39 years the unexpended balance shall revert back to the Charity
40 Bingo Mitigation Fund.

(2) To reimburse the Special Distribution Fund, those nonprofit organizations that conduct a remote caller bingo game pursuant to Section 326.3 shall pay to the Department of Justice an amount equal to 5 percent of the gross revenues of each remote caller bingo game played until that time as the full advanced amount plus interest on the loan at the rate accruing to moneys in the Pooled Money Investment Account is reimbursed.

(e) (1) An organization meeting the requirements in subdivision (a) shall be eligible to receive mitigation payments from the Charity Bingo Mitigation Fund only if the city, county, or city and county in which the organization is located maintained official records of the net revenues generated for the fiscal year ending June 30, 2008, by the organization from the use of electronic devices or the organization maintained audited financial records for the fiscal year ending June 30, 2008, which show the net revenues generated from the use of electronic devices.

(2) In addition, an organization applying for mitigation payments shall provide proof that its board of directors has adopted a resolution and its chief executive officer has signed a statement executed under penalty of perjury stating that, as of January 1, 2009, the organization has ceased using electronic devices other than card-minding devices, as described in subdivision (p) of Section 326.5, as a fundraising tool.

(3) Each eligible organization may apply to the California Gambling Control Commission no later than January 31, 2009, for the mitigation payments in the amount equal to net revenues from the fiscal year ending June 30, 2008, by filing an application, including therewith documents and other proof of eligibility, including any and all financial records documenting the organization's net revenues for the fiscal year ending June 30, 2008, as the California Gambling Control Commission may require. The California Gambling Control Commission is authorized to access and examine the financial records of charities requesting funding in order to confirm the legitimacy of the request for funding. In the event that the total of those requests exceeds five million dollars (\$5,000,000), payments to all eligible applicants shall be reduced in proportion to each requesting organization's reported or audited net revenues from the operation of electronic devices.

1 ~~SEC. 125.~~

2 *SEC. 127.* Section 326.5 of the Penal Code is amended to read:

3 326.5. (a) Neither the prohibition on gambling in this chapter
4 nor in Chapter 10 (commencing with Section 330) applies to any
5 bingo game that is conducted in a city, county, or city and county
6 pursuant to an ordinance enacted under Section 19 of Article IV
7 of the State Constitution, if the ordinance allows games to be
8 conducted only in accordance with this section and only by
9 organizations exempted from the payment of the bank and
10 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
11 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
12 Taxation Code and by mobilehome park associations, senior
13 citizens organizations, and charitable organizations affiliated with
14 a school district; and if the receipts of those games are used only
15 for charitable purposes.

16 (b) It is a misdemeanor for any person to receive or pay a profit,
17 wage, or salary from any bingo game authorized by Section 19 of
18 Article IV of the State Constitution. Security personnel employed
19 by the organization conducting the bingo game may be paid from
20 the revenues of bingo games, as provided in subdivisions (j) and
21 (k).

22 (c) A violation of subdivision (b) shall be punishable by a fine
23 not to exceed ten thousand dollars (\$10,000), which fine is
24 deposited in the general fund of the city, county, or city and county
25 that enacted the ordinance authorizing the bingo game. A violation
26 of any provision of this section, other than subdivision (b), is a
27 misdemeanor.

28 (d) The city, county, or city and county that enacted the
29 ordinance authorizing the bingo game may bring an action to enjoin
30 a violation of this section.

31 (e) Minors shall not be allowed to participate in any bingo game.

32 (f) An organization authorized to conduct bingo games pursuant
33 to subdivision (a) shall conduct a bingo game only on property
34 owned or leased by it, or property whose use is donated to the
35 organization, and which property is used by that organization for
36 an office or for performance of the purposes for which the
37 organization is organized. Nothing in this subdivision shall be
38 construed to require that the property owned or leased by, or whose
39 use is donated to, the organization be used or leased exclusively
40 by, or donated exclusively to, that organization.

1 (g) All bingo games shall be open to the public, not just to the
2 members of the authorized organization.

3 (h) A bingo game shall be operated and staffed only by members
4 of the authorized organization that organized it. Those members
5 shall not receive a profit, wage, or salary from any bingo game.
6 Only the organization authorized to conduct a bingo game shall
7 operate such a game, or participate in the promotion, supervision,
8 or any other phase of a bingo game. This subdivision does not
9 preclude the employment of security personnel who are not
10 members of the authorized organization at a bingo game by the
11 organization conducting the game.

12 (i) Any individual, corporation, partnership, or other legal entity,
13 except the organization authorized to conduct a bingo game, shall
14 not hold a financial interest in the conduct of a bingo game.

15 (j) With respect to organizations exempt from payment of the
16 bank and corporation tax by Section 23701d of the Revenue and
17 Taxation Code, all profits derived from a bingo game shall be kept
18 in a special fund or account and shall not be commingled with any
19 other fund or account. Those profits shall be used only for
20 charitable purposes.

21 (k) With respect to other organizations authorized to conduct
22 bingo games pursuant to this section, all proceeds derived from a
23 bingo game shall be kept in a special fund or account and shall not
24 be commingled with any other fund or account. Proceeds are the
25 receipts of bingo games conducted by organizations not within
26 subdivision (j). Those proceeds shall be used only for charitable
27 purposes, except as follows:

28 (1) The proceeds may be used for prizes.

29 (2) (A) Except as provided in subparagraph (B), a portion of
30 the proceeds, not to exceed 20 percent of the proceeds before the
31 deduction for prizes, or two thousand dollars (\$2,000) per month,
32 whichever is less, may be used for the rental of property and for
33 overhead, including the purchase of bingo equipment,
34 administrative expenses, security equipment, and security
35 personnel.

36 (B) For the purposes of bingo games conducted by the Lake
37 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
38 percent of the proceeds before the deduction for prizes, or three
39 thousand dollars (\$3,000) per month, whichever is less, may be
40 used for the rental of property and for overhead, including the

1 purchase of bingo equipment, administrative expenses, security
2 equipment, and security personnel. Any amount of the proceeds
3 that is additional to that permitted under subparagraph (A), up to
4 one thousand dollars (\$1,000), shall be used for the purpose of
5 financing the rebuilding of the facility and the replacement of
6 equipment that was destroyed by fire in 2007. The exception to
7 subparagraph (A) that is provided by this subparagraph shall remain
8 in effect only until the cost of rebuilding the facility is repaid, or
9 January 1, 2019, whichever occurs first.

10 (3) The proceeds may be used to pay license fees.

11 (4) A city, county, or city and county that enacts an ordinance
12 permitting bingo games may specify in the ordinance that if the
13 monthly gross receipts from bingo games of an organization within
14 this subdivision exceed five thousand dollars (\$5,000), a minimum
15 percentage of the proceeds shall be used only for charitable
16 purposes not relating to the conducting of bingo games and that
17 the balance shall be used for prizes, rental of property, overhead,
18 administrative expenses, and payment of license fees. The amount
19 of proceeds used for rental of property, overhead, and
20 administrative expenses is subject to the limitations specified in
21 paragraph (2).

22 (l) (1) A city, county, or city and county may impose a license
23 fee on each organization that it authorizes to conduct bingo games.
24 The fee, whether for the initial license or renewal, shall not exceed
25 fifty dollars (\$50) annually, except as provided in paragraph (2).
26 If an application for a license is denied, one-half of any license
27 fee paid shall be refunded to the organization.

28 (2) In lieu of the license fee permitted under paragraph (1), a
29 city, county, or city and county may impose a license fee of fifty
30 dollars (\$50) paid upon application. If an application for a license
31 is denied, one-half of the application fee shall be refunded to the
32 organization. An additional fee for law enforcement and public
33 safety costs incurred by the city, county, or city and county that
34 are directly related to bingo activities may be imposed and shall
35 be collected monthly by the city, county, or city and county issuing
36 the license; however, the fee shall not exceed the actual costs
37 incurred in providing the service.

38 (m) A person shall not be allowed to participate in a bingo game,
39 unless the person is physically present at the time and place where
40 the bingo game is being conducted.

1 (n) The total value of prizes available to be awarded during the
2 conduct of any bingo games shall not exceed five hundred dollars
3 (\$500) in cash or kind, or both, for each separate game which is
4 held.

5 (o) As used in this section, “bingo” means a game of chance in
6 which prizes are awarded on the basis of designated numbers or
7 symbols that are marked or covered by the player on a tangible
8 card in the player’s possession and that conform to numbers or
9 symbols, selected at random and announced by a live caller.
10 Notwithstanding Section 330c, as used in this section, the game
11 of bingo includes tangible cards having numbers or symbols that
12 are concealed and preprinted in a manner providing for distribution
13 of prizes. Electronics or video displays shall not be used in
14 connection with the game of bingo, except in connection with the
15 caller’s drawing of numbers or symbols and the public display of
16 that drawing, and except as provided in subdivision (p). The
17 winning cards shall not be known prior to the game by any person
18 participating in the playing or operation of the bingo game. All
19 preprinted cards shall bear the legend, “for sale or use only in a
20 bingo game authorized under California law and pursuant to local
21 ordinance.” Only a covered or marked tangible card possessed by
22 a player and presented to an attendant may be used to claim a prize.
23 It is the intention of the Legislature that bingo as defined in this
24 subdivision applies exclusively to this section and shall not be
25 applied in the construction or enforcement of any other provision
26 of law.

27 (p) (1) Players who are physically present at a bingo game may
28 use hand-held, portable card-minding devices, as described in this
29 subdivision, to assist in monitoring the numbers or symbols
30 announced by a live caller as those numbers or symbols are called
31 in a live game. Card-minding devices may not be used in
32 connection with any game where a bingo card may be sold or
33 distributed after the start of the ball draw for that game. A
34 card-minding device shall do all of the following:

35 (A) Be capable of storing in the memory of the device bingo
36 faces of tangible cards purchased by a player.

37 (B) Provide a means for bingo players to input manually each
38 individual number or symbol announced by a live caller.

39 (C) Compare the numbers or symbols entered by the player to
40 the bingo faces previously stored in the memory of the device.

1 (D) Identify winning bingo patterns that exist on the stored
2 bingo faces.

3 (2) A card-minding device shall perform no functions involving
4 the play of the game other than those described in paragraph (1).
5 Card-minding devices shall not do any of the following:

6 (A) Be capable of accepting or dispensing any coins, currency,
7 or other representative of value or on which value has been
8 encoded.

9 (B) Be capable of monitoring any bingo card face other than
10 the faces of the tangible bingo card or cards purchased by the
11 player for that game.

12 (C) Display or represent the game result through any means,
13 including, but not limited to, video or mechanical reels or other
14 slot machine or casino game themes, other than highlighting the
15 winning numbers or symbols marked or covered on the tangible
16 bingo cards or giving an audio alert that the player's card has a
17 prize-winning pattern.

18 (D) Determine the outcome of any game or be physically or
19 electronically connected to any component that determines the
20 outcome of a game or to any other bingo equipment, including,
21 but not limited to, the ball call station, or to any other card-minding
22 device. No other player-operated or player-activated electronic or
23 electromechanical device or equipment is permitted to be used in
24 connection with a bingo game.

25 (3) (A) A card-minding device shall be approved in advance
26 by the department as meeting the requirements of this section and
27 any additional requirements stated in regulations adopted by the
28 department. Any proposed material change to the device, including
29 any change to the software used by the device, shall be submitted
30 to the department and approved by the department prior to
31 implementation.

32 (B) In accordance with Chapter 5 (commencing with Section
33 19800) of Division 8 of the Business and Professions Code, the
34 commission shall establish reasonable criteria for, and require the
35 licensure of, any person that directly or indirectly manufactures,
36 distributes, supplies, vends, leases, or otherwise provides
37 card-minding devices or other supplies, equipment, or services
38 related to card-minding devices designed for use in the playing of
39 bingo games by any nonprofit organization.

1 (C) A person or entity that supplies or services any card-minding
2 device shall meet all licensing requirements established by the
3 commission in regulations.

4 (4) The costs of any testing, certification, license, or
5 determination required by this subdivision shall be borne by the
6 person or entity seeking it.

7 (5) On and after January 1, 2010, the Department of Justice may
8 inspect all card-minding devices at any time without notice, and
9 may immediately prohibit the use of any device that does not
10 comply with the requirements established by the department in
11 regulations. The Department of Justice may at any time, without
12 notice, impound any device the use of which has been prohibited
13 by the commission.

14 (6) The Department of Justice shall issue regulations to
15 implement the requirements of this subdivision, and the California
16 Gambling Control Commission may issue regulations regarding
17 the means by which the operator of a bingo game, as required by
18 applicable law, may offer assistance to a player with disabilities
19 in order to enable that player to participate in a bingo game,
20 provided that the means of providing that assistance shall not be
21 through any electronic, electromechanical, or other device or
22 equipment that accepts the insertion of any coin, currency, token,
23 credit card, or other means of transmitting value, and does not
24 constitute or is not a part of a system that constitutes a video lottery
25 terminal, slot machine, or device prohibited by Chapter 10
26 (commencing with Section 330).

27 (7) The following definitions apply for purposes of this
28 subdivision:

29 (A) "Commission" means the California Gambling Control
30 Commission.

31 (B) "Department" means the Department of Justice.

32 (C) "Person" includes a natural person, corporation, limited
33 liability company, partnership, trust, joint venture, association, or
34 any other business organization.

35 ~~SEC. 126.~~

36 *SEC. 128.* Section 25464 of the Public Resources Code is
37 amended to read:

38 25464. (a) For purposes of this section, the following
39 definitions apply:

1 (1) “Fund” means the Clean and Renewable Energy Business
2 Financing Revolving Loan Fund.

3 (2) “Program” means the Clean and Renewable Energy Business
4 Financing Revolving Loan Program.

5 (b) (1) The commission may use federal funds available
6 pursuant to this chapter to implement the Clean and Renewable
7 Energy Business Financing Revolving Loan Program to provide
8 low interest loans to California clean and renewable energy
9 manufacturing businesses.

10 (2) The commission may use other funding sources to leverage
11 loans awarded under the program.

12 (c) The commission may work directly with the Governor’s
13 Office of Business and Economic Development, the Treasurer, or
14 any other state agency, board, commission, or authority to
15 implement and administer the program, and may contract for
16 private services as needed to implement the program.

17 (d) The commission may collect an application fee from
18 applicants applying for funding under the program to help offset
19 the costs of administering the program.

20 (e) (1) The Clean and Renewable Energy Business Financing
21 Revolving Loan Fund is hereby established in the State Treasury
22 to implement the program. The commission is authorized to
23 administer the fund for this purpose. Notwithstanding Section
24 13340 of the Government Code, the money in the fund is
25 continuously appropriated to the commission, without regard to
26 fiscal years, to implement the program.

27 (2) Upon direction by the commission, the Controller shall create
28 any accounts or subaccounts within the fund that the commission
29 determines are necessary to facilitate management of the fund.

30 (3) The Controller shall disburse and receive moneys in the fund
31 for purposes of the program and as authorized by the commission.

32 (4) All loans and repayments of loans made pursuant to this
33 section, including interest payments, penalty payments, and all
34 interest earning on or accruing to any moneys in the fund, shall be
35 deposited in the fund and shall be available for the purposes of
36 this section.

37 (5) The commission may expend up to 5 percent of moneys in
38 the fund for its administrative costs to implement the program.

(f) Federal funds available to the commission pursuant to this chapter shall be transferred to the fund in the loan amounts when loans are awarded under the program by the commission.

~~SEC. 127.~~

SEC. 129. Section 41136 of the Revenue and Taxation Code is amended to read:

41136. From the funds in the State Emergency Telephone Number Account, a minimum of one-half of 1 percent of the charges for intrastate telephone communications and VoIP service to which the surcharge applies shall, when appropriated by the Legislature, be spent solely for the following purposes:

(a) To pay refunds authorized by this part.

(b) To pay the State Board of Equalization for the cost of the administration of this part.

(c) To pay the Department of Technology for its costs in administration of the “911” emergency telephone number system.

(d) To pay bills submitted to the Department of Technology by service suppliers or communications equipment companies for the installation of, and ongoing expenses for, the following communications services supplied to local agencies in connection with the “911” emergency phone number system:

(1) A basic system.

(2) A basic system with telephone central office identification.

(3) A system employing automatic call routing.

(4) Approved incremental costs.

(e) To pay claims of local agencies for approved incremental costs, not previously compensated for by another governmental agency.

(f) To pay claims of local agencies for incremental costs and amounts, not previously compensated for by another governmental agency, incurred prior to the effective date of this part, for the installation and ongoing expenses for the following communication services supplied in connection with the “911” emergency telephone number system:

(1) A basic system.

(2) A basic system with telephone central office identification.

(3) A system employing automatic call routing.

(4) Approved incremental costs. Incremental costs shall not be allowed unless the costs are concurred in by the Department of Technology.

~~SEC. 128.~~

SEC. 130. Section 335 of the Unemployment Insurance Code is amended to read:

335. The department, in consultation and coordination with the film and movie industry, the Governor's Office of Business and Economic Development, and the California Film Commission shall do all of the following, contingent upon the appropriation of funds in the annual Budget Act for these specified purposes:

(a) Research and maintain data on the employment and output of the film industry, including full-time, part-time, contract, and short duration or single event employees.

(b) Examine the ethnic diversity and representation of minorities in the entertainment industry.

(c) Determine the overall direct and indirect economic impact of the film industry.

(d) Monitor film industry employment and activity in other states and countries that compete with California for film production.

(e) Review the effect that federal and state laws and local ordinances have on the filmed entertainment industry.

(f) Prepare and release biannually a report to the chairpersons of the appropriate Senate and Assembly policy committees that details the information required by this section.

~~SEC. 129.~~

SEC. 131. Section 10200 of the Unemployment Insurance Code is amended to read:

10200. The Legislature finds and declares the following:

(a) California's economy is being challenged by competition from other states and overseas. In order to meet this challenge, California's employers, workers, labor organizations, and government need to invest in a skilled and productive workforce, and in developing the skills of frontline workers. For purposes of this section, "frontline worker" means a worker who directly produces or delivers goods or services.

The purpose of this chapter is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy that shall fund only projects that meet the following criteria:

(1) Foster creation of high-wage, high-skilled jobs, or foster retention of high-wage, high-skilled jobs in manufacturing and

1 other industries that are threatened by out-of-state and global
2 competition, including, but not limited to, those industries in which
3 targeted training resources for California's small and medium-sized
4 business suppliers will increase the state's competitiveness to
5 secure federal, private sector, and other nonstate funds. In addition,
6 provide for retraining contracts in companies that make a monetary
7 or in-kind contribution to the funded training enhancements.

8 (2) Encourage industry-based investment in human resources
9 development that promotes the competitiveness of California
10 industry through productivity and product quality enhancements.

11 (3) Result in secure jobs for those who successfully complete
12 training. All training shall be customized to the specific
13 requirements of one or more employers or a discrete industry and
14 shall include general skills that trainees can use in the future.

15 (4) Supplement, rather than displace, funds available through
16 existing programs conducted by employers and government-funded
17 training programs, such as the Workforce Investment Act of 1998
18 (29 U.S.C. Sec. 2801 et seq.), the Carl D. Perkins Vocational
19 Education Act (Public Law 98-524), CalWORKs (Chapter 2
20 (commencing with Section 11200) of Part 3 of Division 9 of the
21 Welfare and Institutions Code), the Enterprise Zone Act (Chapter
22 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
23 the Government Code), and the McKinney-Vento Homeless
24 Assistance Act (42 U.S.C. Sec. 11301 et seq.), the California
25 Community Colleges Economic Development Program, or
26 apportionment funds allocated to the community colleges, regional
27 occupational centers and programs, or other local educational
28 agencies. In addition, it is further the intention of the Legislature
29 that programs developed pursuant to this chapter shall not replace,
30 parallel, supplant, compete with, or duplicate in any way already
31 existing approved apprenticeship programs.

32 (b) The Employment Training Panel, in funding projects that
33 meet the requirements of subdivision (a), shall give funding priority
34 to those projects that best meet the following goals:

35 (1) Result in the growth of the California economy by
36 stimulating exports from the state and the production of goods and
37 services that would otherwise be imported from outside the state.

38 (2) Train new employees of firms locating or expanding in the
39 state that provide high-skilled, high-wage jobs and are committed
40 to an ongoing investment in the training of frontline workers.

1 (3) Develop workers with skills that prepare them for the
2 challenges of a high performance workplace of the future.

3 (4) Train workers who have been displaced, have received
4 notification of impending layoff, or are subject to displacement,
5 because of a plant closure, workforce reduction, changes in
6 technology, or significantly increasing levels of international and
7 out-of-state competition.

8 (5) Are jointly developed by business management and worker
9 representatives.

10 (6) Develop career ladders for workers.

11 (7) Promote the retention and expansion of the state's
12 manufacturing workforce.

13 (c) The program established through this chapter is to be
14 coordinated with all existing employment training programs and
15 economic development programs, including, but not limited to,
16 programs such as the Workforce Investment Act of 1998 (29 U.S.C.
17 Sec. 2801 et seq.), the California Community Colleges, the regional
18 occupational programs, vocational education programs, joint
19 labor-management training programs, and related programs under
20 the Employment Development Department and the Governor's
21 Office of Business and Economic Development, and the Business,
22 Consumer Services, and Housing Agency.

23 ~~SEC. 130.~~

24 *SEC. 132.* Section 10202.5 of the Unemployment Insurance
25 Code is amended to read:

26 10202.5. (a) The panel shall consist of eight persons, seven
27 of whom shall be appointed as provided in subdivision (b), and
28 shall have experience and a demonstrated interest in business
29 management and employment relations. The Director of the
30 Governor's Office of Business and Economic Development, or
31 his or her designee, shall also serve on the panel as an ex officio,
32 voting member.

33 (b) (1) Two members of the panel shall be appointed by the
34 Speaker of the Assembly. One of those members shall be a private
35 sector labor representative and the other member shall be a business
36 representative.

37 (2) Two members of the panel shall be appointed by the
38 President pro Tempore of the Senate. One of those members shall
39 be a private sector labor representative and the other member shall
40 be a business representative.

1 (3) Three members of the panel shall be appointed by the
2 Governor. One of those members shall be a private sector labor
3 representative, one member shall be a business representative, and
4 one member shall be a public member.

5 (4) Labor appointments shall be made from nominations from
6 state labor federations. Business appointments shall be made from
7 nominations from state business organizations and business trade
8 associations.

9 (5) The Governor shall designate a member to chair the panel,
10 and the person so designated shall serve as the chair of the panel
11 at the pleasure of the Governor.

12 (c) The appointive members of the panel shall serve for two-year
13 terms.

14 (d) Appointive members of the panel shall receive the necessary
15 traveling and other expenses incurred by them in the performance
16 of their official duties out of appropriations made for the support
17 of the panel. In addition, each appointive member of the panel
18 shall receive one hundred dollars (\$100) for each day attending
19 meetings of the panel, and may receive one hundred dollars (\$100)
20 for each day spent conducting other official business of the panel,
21 but not exceeding a maximum of three hundred dollars (\$300) per
22 month.

23 ~~SEC. 131.~~

24 *SEC. 133.* Section 15002 of the Unemployment Insurance Code
25 is amended to read:

26 15002. (a) The California Workforce Investment Board
27 (CWIB) shall establish a special committee known as the Green
28 Collar Jobs Council (GCJC), comprised of the appropriate
29 representatives from the CWIB existing membership, including
30 the K–12 representative, the California Community Colleges
31 representative, the Governor’s Office of Business and Economic
32 Development representative, the Employment Development
33 Department representative, and other appropriate members. The
34 GCJC may consult with other state agencies, other higher education
35 representatives, local workforce investment boards, and industry
36 representatives as well as philanthropic, nongovernmental, and
37 environmental groups, as appropriate, in the development of a
38 strategic initiative. To the extent private funds are available, is the
39 intent of the Legislature that the GCJC will develop an annual
40 award for outstanding achievement for workforce training programs

1 operated by local or state agencies, businesses, or nongovernment
2 organizations to be named after Parrish R. Collins.

3 (b) As part of the strategic initiative, the GCJC shall focus on
4 developing the framework, funding, strategies, programs, policies,
5 partnerships, and opportunities necessary to address the growing
6 need for a highly skilled and well-trained workforce to meet the
7 needs of California's emerging green economy. The GCJC shall
8 do all of the following:

9 (1) Assist in identifying and linking green collar job
10 opportunities with workforce development training opportunities
11 in local workforce investment areas (LWIAs), encouraging regional
12 collaboration among LWIAs to meet regional economic demands.

13 (2) Align workforce development activities with regional
14 economic recovery and growth strategies.

15 (3) Develop public, private, philanthropic, and nongovernmental
16 partnerships to build and expand the state's workforce development
17 programs, network, and infrastructure.

18 (4) Provide policy guidance for job training programs for the
19 clean and green technology sectors to help them prepare specific
20 populations, such as at-risk youth, displaced workers, veterans,
21 formerly incarcerated individuals, and others facing barriers to
22 employment.

23 (5) Develop, collect, analyze, and distribute statewide and
24 regional labor market data on California's new and emerging green
25 industries workforce needs, trends, and job growth.

26 (6) Collaborate with community colleges and other educational
27 institutions, registered apprenticeship programs, business and labor
28 organizations, and community-based and philanthropic
29 organizations to align workforce development services with
30 strategies for regional economic growth.

31 (7) Identify funding resources and make recommendations on
32 how to expand and leverage these funds.

33 (8) Foster regional collaboratives in the green economic sector.

34 (c) The CWIB may accept any revenues, moneys, grants, goods,
35 or services from federal and state entities, philanthropic
36 organizations, and other sources, to be used for purposes relating
37 to the administration and implementation of the strategic initiative,
38 as described in subdivision (b). The CWIB shall also ensure the
39 highest level of transparency and accountability and make
40 information available on the CWIB Internet Web site.

1 (d) Upon appropriation by the Legislature, the department may
2 expend the moneys and revenues received pursuant to subdivision
3 (c) for purposes related to the administration and implementation
4 of the strategic initiative, and for the award of workforce training
5 grants implementing the strategic initiative.

6 ~~SEC. 132.~~

7 *SEC. 134.* This act shall become operative on July 1, 2013,
8 except that Section 12 of this act, amending Section 5405 of the
9 Civil Code, shall become operative on January 1, 2014.

10 ~~SEC. 133.~~

11 *SEC. 135.* This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 To allow programmatic changes in statute to be operative at the
16 same time the Governor's Reorganization Plan No. 2 of 2012
17 becomes operative, it is necessary that this act take effect
18 immediately.